

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 19-CR-286(AMD)

Plaintiff, :

-against- : United States Courthouse  
Brooklyn, New York

ROBERT SYLVESTER KELLY, :

Defendant. : September 3, 2021  
9:30 a.m.

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TRANSCRIPT OF TRIAL  
BEFORE THE HONORABLE ANN M. DONNELLY  
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

For the Government: JACQUELYN M. KASULIS  
Acting United States Attorney  
BY: ELIZABETH GEDDES  
NADIA SHIHATA  
MARIA E. CRUZ MELENDEZ  
Assistant United States Attorneys  
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Brooklyn, New York

For the Defendant: DEVEREAUX L. CANNICK, ESQ.  
NICOLE BLANK BECKER, ESQ.  
THOMAS FARINELLA, ESQ.  
CALVIN HAROLD SCHOLAR, ESQ.

Court Reporter: Andronikh M. Barna  
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Proceedings recorded by mechanical stenography, transcript  
produced by computer-aided transcription.

Proceedings

2619

1 (In open court; jury not present.)

2 (Parties present.)

3 THE CLERK: All rise.

4 THE COURT: Everybody can have a seat.

5 Do I need to decide this motion today?

6 MS. GEDDES: No.

7 THE COURT: I have a few questions about it, or we  
8 can do it afterwards.

9 (Pause.)

10 MR. CANNICK: Good morning, Your Honor.

11 THE COURT: Hi.

12 All right. I received the defense motion in limine  
13 I do not know how you want to respond to it. If I do not have  
14 to decide it today, I think it can wait. When were you  
15 planning to produce the evidence?

16 MS. GEDDES: Certainly not today and the earliest  
17 would be late next week, because we're not meeting until late  
18 next week.

19 THE COURT: Okay. So let's see what we can get done  
20 with the testimony today and then before we break for the  
21 mercifully long weekend, I will just ask you a couple of  
22 questions about it.

23 Oh, Mr. Scholar is not here.

24 MR. CANNICK: No. He should be right back.

25 THE COURT: Okay. Is it okay to get moving?

Proceedings

2620

1 MR. CANNICK: Yes, yes.

2 THE COURT: So I have no recollection of what we did  
3 yesterday. Are we putting a new witness on now?

4 MS. GEDDES: Yes.

5 THE COURT: So let's get the witness.

6 Which witness is it?

7 MS. GEDDES: We're calling Kate.

8 THE COURT: Kate, okay.

9 MS. GEDDES: Do you want me to let you know where we  
10 are in the binders?

11 THE COURT: That would be most helpful.

12 (Discussion held off the record.)

13 THE COURT: Mr. Scholar, I was told by the other  
14 lawyers that we will talk about this motion in limine right  
15 before we break because they are not planning to put it in  
16 today.

17 MR. SCHOLAR: Okay. Thank you.

18 THE COURT: Okay.

19 All right. And let's get the jury, please.

20 (Witness enters the courtroom.)

21 MS. GEDDES: You could have a seat.

22 (Pause.)

23 THE CLERK: All rise.

24 (Jury enters the courtroom. )

25 THE CLERK: You may be seated.

Proceedings

2621

1 THE COURT: All right. Good morning, everybody. We  
2 are ready to begin with the testimony of the next witness.

3 I just want to see the lawyers at the side for a  
4 brief moment with the court reporter.

5 (Sealed sidebar.)

6 (Continuing on the next page.)

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SEALED BY ORDER OF THE COURT

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1 (Sealed sidebar conference held on the record out of  
2 the hearing of the jury.)

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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2623

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(Sealed sidebar ends.)

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(Continuing on the next page.)

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Proceedings

2624

1 THE COURT: All right the witness is here. Could  
2 you call your next witness?

3 MS. GEDDES: Yes. The government calls Kate.

4 THE CLERK: Please stand and raise your right hand.  
5 (Witness sworn.)

6 THE CLERK: You may be seated. You can remove your  
7 mask.

8 THE COURT: Just a couple of things before we begin.

9 I want to the make sure that everybody can hear you  
10 and that the court reporter can take down what you are saying,  
11 so I am going to ask that you speak into the microphone. Do  
12 not speak too quickly and do your best not to speak over  
13 whichever lawyer is asking you questions.

14 If there is a question that you want to have  
15 repeated or clarified, let me know.

16 And just do your best to answer only the question  
17 you're being asked. Okay?

18 Go ahead.

19 (Continuing on the next page.)  
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21  
22  
23  
24  
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Kate - Direct - Geddes

2625

1 **KATE**, having been first duly sworn, was examined and testified  
2 as follows:

3 **DIRECT EXAMINATION**

4 **BY MS. GEDDES:**

5 Q Good morning.

6 A Good morning.

7 THE COURT: Let's make sure the microphone is on.  
8 I think you've got to turn it on. It is right at  
9 the top.

10 THE WITNESS: Good morning.

11 THE COURT: No. Tap it. Okay.

12 MS. GEDDES: I'm showing the witness only what's  
13 been marked for identification as Government Exhibit 60.

14 Q Do you recognize what is shown in Government Exhibit 60?

15 A Yes.

16 Q What is that?

17 A My photo.

18 MS. GEDDES: The government offers Government  
19 Exhibit 60.

20 MR. CANNICK: No objection.

21 THE COURT: Okay. That is in evidence. You can  
22 publish it.

23 (Government Exhibit 60 was received in evidence.)

24 MS. GEDDES: And I am now showing, the witness only,  
25 what's been marked for identification as Government Exhibit



Kate - Direct - Geddes

2626

1 60(a).

2 Q In 60(a), is that that same photograph that was in  
3 Government Exhibit 60 from a moment ago?

4 A Yes.

5 Q And is below that your true first and last name?

6 A Yes.

7 MS. GEDDES: The government offers 60(a).

8 MR. CANNICK: No objection.

9 THE COURT: Okay. That is in evidence.

10 MS. GEDDES: Published to the jury only.

11 (Government Exhibit 60(a) was received in evidence.)

12 MS. GEDDES: Finally, I am showing the witness what  
13 is marked for identification as Government Exhibit 60(b).

14 Q Is that again that same photograph and below that the  
15 name Kate?

16 A Yes.

17 Q And today we are going to call you just by Kate.

18 MS. GEDDES: The government offers 60(b).

19 MR. CANNICK: No objection.

20 THE COURT: Okay. That is in evidence.

21 (Government Exhibit 60(b) was received in evidence.)

22 MS. GEDDES: And may we publish just briefly?

23 I'm showing what's in evidence as Government Exhibit  
24 No. 1.

25 Q Do you recognize the individual in Government Exhibit

Kate - Direct - Geddes

2627

1 No. 1?

2 A Yes.

3 Q Who is that?

4 A Rob.

5 Q And do you personally know him?

6 A Yes.

7 Q Do you see him in the courtroom today?

8 A Yes, I do.

9 Q Can you point to him and describe an article of his  
10 clothing?

11 A He appears to be wearing a white dress shirt with a gray  
12 suit jacket.

13 THE COURT: Indicating the defendant.

14 MS. GEDDES: Thank you.

15 Q What was the nature of your relationship with the  
16 defendant?

17 A We had been introduced and became friends.

18 Q And at some point did you begin a sexual relationship  
19 with him?

20 A Yes.

21 Q When did you meet the defendant?

22 A Sometime in the year of 2001.

23 Q In what city were you then living?

24 A I was living in Chicago, Illinois.

25 Q And approximately how old were you when you first met the

Kate - Direct - Geddes

2628

1 defendant in 2001?

2 A I was 27 years old.

3 Q How were you introduced to the defendant, or how did you  
4 come to meet him?

5 A Through an acquaintance of both of ours.

6 Q And where did you spend time with the defendant?

7 A We had spend time in his recording studio and in various  
8 cars he had, and public places.

9 Q And when you say "public places," are you referring to  
10 bars and clubs and things of that nature?

11 A Yes. We had been to the movies and concerts, and he had  
12 taken me out a few places.

13 MS. GEDDES: I'm showing the witness what's in  
14 evidence as Government Exhibit 525(u).

15 Q Do you recognize what's shown in 525(u)?

16 A Yes, I do.

17 Q What is that?

18 A It appears to be the entrance, a gated fence for his --  
19 one of his business operations.

20 Q And which operation was that?

21 A A recording studio of his.

22 Q And was that recording studio the recording studio that  
23 you just testified you spent time in with the defendant?

24 A Yes, it is.

25 MS. GEDDES: And I am also showing the witness

Kate - Direct - Geddes

2629

1 what's in evidence as Government Exhibit 525(q).

2 Q Do you recognize that as well?

3 A Yes, I do.

4 Q What is that?

5 A It is an entrance to the recording studio which was on  
6 the side of the building.

7 Q Now, what was the routine that you followed when you went  
8 to see the defendant at the recording studio?

9 A When I arrived there or how I was --

10 Q When you arrived there.

11 A When I would arrive there, you would -- if there were  
12 cars before you, you would wait until your car would pull up  
13 to the gate. And there was a side panel of buttons, I  
14 believe, to the left by the driver's door, and you would hit a  
15 button or code and somebody would come on the microphone and  
16 you would identify yourself.

17 Q And would the gate then open?

18 A If you were allowed in.

19 Q What happened once you got through the gate?

20 A You would find a parking spot.

21 Q And then what?

22 A You would exit your car and go to the side door. And  
23 there were security cameras so they would see who they would  
24 let in. You had to be buzzed in. You couldn't just open the  
25 door, from what I remember.

Kate - Direct - Geddes

2630

1 Q And once you were inside and had been buzzed in the  
2 location, where would you go?

3 A You would stand right at the door when you would walk in  
4 and there would be a person sitting at the desk and they would  
5 ask for your identification.

6 Q And were you asked to sign anything else?

7 A Yes.

8 Q What were you asked to sign?

9 A A document stating that I was over 18, with my  
10 identification.

11 Q And do you recall what else was in that document?

12 A No, not -- perhaps not recording anything or taking any  
13 pictures while inside.

14 Q And after you signed that document -- and I think you  
15 said you also provided an identification; is that correct?

16 A On many occasions, yes.

17 Q Okay. Where would you -- what would happen after that?

18 A One of the workers would take you to various places of  
19 the building.

20 Q And did you spend time in different locations within that  
21 studio?

22 A Yes.

23 Q And you testified that one of the workers would take you  
24 to various locations. Do you recall the different rooms  
25 within the studio where you would spend time or you spent

Kate - Direct - Geddes

2631

1 time?

2 A Yes.

3 Q Where in the studio did you spend time?

4 A You would like me to list all the rooms?

5 Q Yes.

6 A There were two large recording rooms. I believe they  
7 were labeled A and B, but I can't be for certain. So you  
8 would either go to one of the recording rooms where Rob was  
9 present or you may go to a different room, if he was in a  
10 different room, where you would be in a different room waiting  
11 for him to come join you.

12 Q Were there times when you spent time in a room on that  
13 first floor of the studio?

14 A Not routinely.

15 Q Were there ever times though?

16 A I believe there were some chairs by the front office, so  
17 on occasion, very rarely, I might have sat there until I went  
18 somewhere else.

19 Q And then were there also locations on the second floor  
20 where you would go to wait for the defendant?

21 A From the best I recall, I believe we were always up some  
22 flight of stairs.

23 Q And was there a room within on that second floor where  
24 you would often wait for the defendant?

25 A I believe the majority of the rooms were on the second

Kate - Direct - Geddes

2632

1 floor, even the recording studios, but I can't be for certain.

2 Q Now, you testified earlier that there was a time when you  
3 were, in fact, engaged in a sexual relationship with the  
4 defendant; is that correct?

5 A Yes.

6 Q Was anyone other than the defendant a part of your sexual  
7 encounters with him?

8 A Rarely.

9 Q But were there times when someone else was?

10 A Yes.

11 Q And whose idea was that?

12 A Rob's.

13 Q Do you recall the first time that another individual was  
14 part of a sexual encounter with him?

15 A Yes.

16 Q What happened?

17 A We had been in the recording studio and somehow he had  
18 mentioned that there was another female in the building and we  
19 should all be together.

20 Q How did you respond?

21 A I said that's not something I am interested in, it's not  
22 something I have participated in.

23 Q What happened next?

24 A He then proceeded to tell me that it would -- I don't  
25 remember the exact words, but proceeded to tell me to try, see

Kate - Direct - Geddes

2633

1 how it goes or something of that nature.

2 Q And what, if anything, did the defendant do to facilitate  
3 that happening?

4 A Well, after several minutes of, you know, I'm not  
5 interested in that, and well, just try it, he then said --  
6 then escorted me to a different room.

7 Q And what happened after that?

8 A And then when we were in that room. He had taken a  
9 blindfold and put it on my eyes. So it was just him and I in  
10 the room and he had put a blindfold on my eyes.

11 Q And what, if anything, did the defendant say before or as  
12 he put a blindfold over you?

13 A I don't recall.

14 Q What was the purpose of the blind -- what did you  
15 understand the purpose of the blindfold to be?

16 A Perhaps to make me comfortable that -- because I didn't  
17 want to see another individual there.

18 Q What happened after that?

19 A We were -- because I had the blindfold on, he, I don't  
20 know, held my hand and had me walk a few steps, I believe, to  
21 like an adjoining room.

22 Q And then what?

23 A And he told me to put my arms out and just helped me  
24 kneel down.

25 Q And was there a time when you learned that another person



Kate - Direct - Geddes

2634

1 was in the room?

2 A Yes. My hand touched somebody's leg.

3 Q And what happened after that?

4 A I just -- I heard another female say something and that's  
5 all.

6 Q Did you then have a sexual encounter with that other  
7 female?

8 A He had placed my hand maybe on her upper torso.

9 Q And then what happened?

10 A Him and I engaged in intimacy and that's it.

11 Q When you say "him and I," are you referring to the  
12 defendant?

13 A Right. Rob.

14 Q And what if -- I don't need you to be detailed, but what,  
15 if anything, happened between you and the female in the room  
16 or the other person in the room?

17 A Nothing. I had the blindfold on. I just -- my hand  
18 touched her leg and maybe up here on her torso.

19 Q And what, if anything, was the defendant doing or saying  
20 as this was happening?

21 A Well, I couldn't see what he was doing because I had a  
22 blindfold on, but he was touching me, so I don't know what  
23 else he was doing.

24 Q Was the defendant telling you what to do?

25 A No.

Kate - Direct - Geddes

2635

1 Q Did anything else happen with that female -- did anything  
2 else happen with the female in the room that day?

3 A No. I couldn't see what she was doing. I just had known  
4 -- I could tell somebody was there.

5 Q Okay. How did the defendant respond to your reaction in  
6 the room that day?

7 A Once we had gotten in the room with the other female?

8 Q Yes.

9 A His hands were on me, we were engaging in intimacy, so  
10 there wasn't really a reaction.

11 Q Was there a time when the defendant asked you to leave  
12 the room?

13 A Not on that occasion, no.

14 Q Was there another encounter with a female where the  
15 defendant asked you to leave the room?

16 A Yes.

17 Q And just generally speaking, what was the nature of that  
18 encounter with the female?

19 A There was no physical interaction, but it was more just  
20 like, I suppose, my attitude about being present with another  
21 female.

22 Q And what do you -- can you explain what you mean by that?

23 A It was something I did not want to participate in, so it  
24 was more of my reaction.

25 Q And did you make your feelings known in any way to the

Kate - Direct - Geddes

2636

1 defendant?

2 A Yes.

3 Q And how did the defendant respond?

4 A Eventually just said go into the other room.

5 Q And did you then go into the other room?

6 A Yes, I did.

7 Q After that encounter or those encounters with the other  
8 females and the defendant, what, if any, conversation did you  
9 have with the defendant about your concerns?

10 A I had expressed to him that I worried about multiple  
11 sexual partners; I worried about the AIDS virus.

12 Q And were you concerned about potentially contracting some  
13 type of sexually transmitted disease?

14 A Yes.

15 Q And did you make that clear to the defendant?

16 A Yes.

17 Q Now, I want to talk about before you first had sexual  
18 intercourse with the defendant. What, if anything, did you  
19 ask him prior to first engaging in sexual intercourse with  
20 him?

21 A Prior to it I had asked if he was going to wear  
22 something.

23 Q And are you referring to protection?

24 A Yes.

25 Q And how did the defendant respond?

Kate - Direct - Geddes

2637

1 A At first he just kind of looked at me quizzically.

2 Q And what happened after that?

3 A I repeated it and said "Are you going to use something?"

4 Q And what happened?

5 A He just said no.

6 Q And did you then engage in sexual intercourse with the  
7 defendant without any contraception?

8 A Yes.

9 Q What, if any, conversation did you have with the  
10 defendant about your concerns in doing that?

11 A I had asked him if he was, quote/unquote, okay.

12 Q And what did you mean by that?

13 A I was referring to if he had any sexually transmitted  
14 diseases.

15 Q How did the defendant respond?

16 A It was either kind of a look or no, or I don't recall the  
17 actual answer.

18 Q At any point, did the defendant disclose to you that he  
19 had a sexually transmitted disease?

20 A No.

21 Q And when you asked the defendant if he was okay, was that  
22 in the context of engaging in sexual intercourse with him in  
23 his not wearing any form of protection?

24 A Yes, we were at that point, and it was right before the  
25 first time was going to happen.

Kate - Direct - Geddes

2638

1 Q What, if any, disease did you contract after you began a  
2 sexual relationship with the defendant?

3 A The herpes virus.

4 Q What were your first symptoms?

5 A A small bump and some itching or some, like, burning, a  
6 little pain.

7 Q And on what area of your body was this?

8 A My lower region.

9 Q Was it in your vaginal area?

10 A Yes.

11 Q What happened after that?

12 A Due to the tiny bump and the burning, I went to see an  
13 OB/GYN.

14 Q An OB/GYN?

15 A Mm-hm.

16 Q And what, if anything, happened when you went to the  
17 OB/GYN?

18 A The doctor took a scraping and sent it to the lab and  
19 came back a positive diagnosis.

20 Q Now, at the time -- a positive diagnosis for what?

21 A Herpes.

22 Q At the time that you contracted herpes, were you sexually  
23 active with anyone other than the defendant?

24 A No.

25 Q What, if anything, did you say to the defendant after you

Kate - Direct - Geddes

2639

1 learned that you had contracted herpes?

2 A At some point in time I said, "I think you gave me  
3 something."

4 Q How did the defendant respond?

5 A There was no response.

6 Q When you told the defendant that you think -- that you  
7 thought he gave you something, do you remember the context in  
8 which you described that?

9 A As a -- where we were or?

10 Q Did you make clear in any way what you meant by that he  
11 gave you something?

12 A It was just a statement, "I think you gave me something."

13 Q And what were you trying to convey to the defendant?

14 A That I had contracted an STD.

15 Q And, I'm sorry, how did the defendant respond when you  
16 told him that?

17 A There wasn't an answer.

18 Q Did he ask you any questions?

19 A No.

20 Q Did there come a time when you pursued legal action  
21 against the defendant?

22 A Yes.

23 Q Do you recall when that was?

24 A 2004.

25 Q And did you retain a lawyer?

Kate - Direct - Geddes

2640

1 A Yes.

2 Q Who did you retain?

3 A Mrs. Susan Loggans.

4 Q And why did you decide to pursue legal action against the  
5 defendant?

6 MR. CANNICK: Objection.

7 THE COURT: Overruled.

8 Q What caused you to seek a lawyer?

9 A Due to the diagnosis, I didn't know if there would be  
10 potential medical cost in my future that wouldn't be covered  
11 by insurance.

12 Q And when you mentioned "due to the diagnosis," are you  
13 referring to your contracting herpes?

14 A Yes.

15 Q Did you eventually reach a settlement with the defendant?

16 A Yes.

17 Q What, if anything, did you receive as part of that  
18 settlement?

19 A The monetary value?

20 Q Yes.

21 A \$200,000.

22 Q And what, if anything, did you understand were your  
23 obligations as a result of that settlement?

24 A To not disclose the nature of our relationship or speak  
25 publicly about him or publish a book or do any media type

Kate - Direct - Geddes

2641

1 interviews.

2 Q And when you talked about him, are you referring to the  
3 defendant?

4 A Yes.

5 MS. GEDDES: I'm showing the witness only what's  
6 been marked for identification as Government Exhibit 930.

7 May I approach?

8 THE COURT: Yes.

9 MS. GEDDES: Before I do...

10 Q You testified that you entered into a settlement  
11 agreement with the defendant. What, if anything, other than  
12 what you've already just testified, do you recall about the  
13 settlement agreement that you ultimately reached with the  
14 defendant?

15 A After the settlement, I would no longer have claims as to  
16 him or his business operations or his accountant.

17 Q Who was his accountant?

18 A Derrel.

19 Q Do you know Derrel's last name?

20 A I believe it's McDavid or Mc -- I just forgot it.  
21 McDavid or something.

22 Q Have you personally met this individual named Derrel who  
23 you just mentioned?

24 A Yes.

25 MS. GEDDES: I'm showing the witness what's in



Kate - Direct - Geddes

2642

1 evidence -- I'm showing what's in evidence as Government  
2 Exhibit 12.

3 Q Do you recognize the individual shown in Government  
4 Exhibit 12?

5 A Yes.

6 Q Who is that?

7 A Derrel.

8 Q Is that the individual who you just testified about who  
9 you believed was the accountant and who was included in the  
10 settlement agreement?

11 A Yes.

12 Q All right. I am now approaching and showing you what's  
13 been marked for identification as Government Exhibit 930.

14 Did you recognize what's shown in Government  
15 Exhibit 930?

16 A Yes. I didn't read all the pages though.

17 Q But did you recognize what it was?

18 A Yes.

19 Q What was it?

20 A The settlement agreement.

21 Q And is this the settlement agreement that you entered  
22 between yourself and the defendant?

23 A Yes.

24 MS. GEDDES: The government offers Government  
25 Exhibit 930.

Kate - Direct - Geddes

2643

1 MR. CANNICK: No objection.

2 THE COURT: Okay. That is in evidence.

3 You can publish it.

4 (Government Exhibit 930 was received in evidence.)

5 MS. GEDDES: Can I publish to the jury only, please?

6 THE COURT: Yes.

7 THE CLERK: Give me one minute.

8 Okay.

9 MS. GEDDES: One moment. Sorry.

10 Q Now, prior to coming here today, had you seen this  
11 government exhibit?

12 A Yes, many, many years ago.

13 Q And do you still have a copy of the settlement agreement?

14 A I don't believe so.

15 Q Have you seen this settlement agreement in the past five  
16 to ten years?

17 A No. Probably 20 years ago or close to.

18 Q So this was an agreement -- you didn't provide this  
19 agreement to the government, did you?

20 A I did not, no.

21 Q I'm going to direct your attention to paragraph 7, and it  
22 reads: "Effective upon execution and delivery of this  
23 agreement," and then it has your last name, "on behalf of  
24 herself and her heirs, executors, administrators,  
25 representatives, successors and assigns, hereby forever

Kate - Direct - Geddes

2644

1 releases, remises, acquits and discharges R. Kelly Publishing  
2 Inc., Bass Productions, Ltd., Derrel McDavid, Winkler &  
3 McDavid, and to the extent applicable, each of their present  
4 and former parent companies, subsidiaries, affiliates and  
5 related companies," and then it goes on from there.

6 Is that the individual Derrel that you previously  
7 identified, I think you couldn't remember the precise name?

8 A Yes.

9 Q Does that refresh your recollection as to his name?

10 A Yes.

11 Q What is it?

12 A Derrel McDavid.

13 Q And are you familiar with Winkler & McDavid?

14 A No, not at all.

15 Q And as you sit here today, do you have any understanding  
16 of why either Derrel McDavid or Winkler & McDavid were  
17 included in this agreement?

18 A No, no idea.

19 Q And finally, I want to direct your attention to this last  
20 sentence of paragraph 6. And again it reads, with your last  
21 name, "further represents and warrants that she has provided  
22 Kelly with a true, complete and accurate copy of her medical  
23 records."

24 Are those medical records the records from your  
25 OB/GYN?

Kate - Direct - Geddes

2645

1 A I believe so. I didn't hand-deliver them, but the  
2 attorney.

3 Q Did you provide them to your attorney?

4 A I signed a release for her to gather the records.

5 Q Your medical records?

6 A Correct.

7 Q And when you say "a release," are you referring to a  
8 release that allowed your medical records to be disclosed to a  
9 third person?

10 A Correct.

11 MS. GEDDES: One moment.

12 Q And just to be clear, the medical records, did they  
13 relate to your herpes diagnosis?

14 MR. CANNICK: Objection.

15 THE COURT: Overruled.

16 A Repeat the question, please?

17 Q The medical records that you understood your attorney was  
18 going to obtain, was that related to your herpes diagnosis?

19 A Yes. That was the doctor who had given the diagnosis.

20 MS. GEDDES: And again, I'm just showing to the jury  
21 only.

22 Q Is that your signature on that last page?

23 A Yes, but I don't believe that's me writing the date.

24 Q Okay. And what was the date of the agreement?

25 A It appears to be 7/30/2004.

Kate - Cross - Cannick

2646

1 Q So July of 2004?

2 A Correct.

3 Q And is that approximately when you remember entering into  
4 an agreement with the defendant?

5 A Yes.

6 Q Now, since you have been diagnosed with herpes, have you  
7 informed your sexual partners about your diagnosis?

8 MR. CANNICK: Objection.

9 THE COURT: Overruled.

10 A Before sexual intercourse?

11 Q Yes.

12 A Yes.

13 Q And how, if at all, has your herpes diagnosis affected  
14 your relationships?

15 A It's greatly affected relationships.

16 Q How so?

17 A Relationships haven't proceeded because of it and also I  
18 have prevented relationships from happening.

19 Q Because of what reason?

20 A Because of the diagnosis.

21 MS. GEDDES: Nothing further.

22 THE COURT: Cross-examination?

23 MR. CANNICK: Yes.

24 CROSS-EXAMINATION

25 BY MR. CANNICK:

Kate - Cross - Cannick

2647

1 Q When was it that you got the diagnosis that you had  
2 herpes?

3 A 2001.

4 Q 2001.

5 When was it that you terminated -- or the  
6 relationship between you and Mr. Kelly terminated?

7 A 2004.

8 Q So after you received the diagnosis in 2001, you dated  
9 him for another three years?

10 A That's correct.

11 Q And you continued to have sexual relations with him after  
12 that diagnosis?

13 A Correct.

14 Q Now, when was it -- how old were you when you met  
15 Mr. Kelly?

16 A As stated before, I was 27.

17 Q And you were well into your career at that time, am I  
18 correct?

19 THE COURT: I think we discussed this. I think we  
20 discussed this earlier.

21 MR. CANNICK: Yes.

22 THE COURT: Okay. Good.

23 Q And your career is a professional career, am I correct?

24 A Correct.

25 Q And when you met Mr. Kelly, your relationship or at least

Kate - Cross - Cannick

2648

1 the involvement of seeing each other was somewhat sporadic, am  
2 I correct?

3 A That's correct.

4 Q And that's because the both of you had very busy careers,  
5 am I correct?

6 A Correct.

7 Q Now, you never traveled outside of the state of Illinois  
8 to be with Mr. Kelly?

9 A No.

10 Q And when you went to visit with him on the first  
11 occasion, you testified that you had to go through a security  
12 check?

13 A Correct.

14 Q And that security check, they wanted to see your  
15 identification?

16 A Yes.

17 Q And after they saw your identification, you went to the  
18 next step of signing a nondisclosure agreement?

19 A Not on the first occasion, but that's correct. On a  
20 future occasion, yes.

21 Q On future occasions, okay.

22 Now, when you were with Mr. Kelly, he was never  
23 violent towards you, am I correct?

24 A Never.

25 Q In fact, whenever he was somewhat disappointed or had an

Kate - Cross - Cannick

2649

1 issue, he would speak softly, did he not?

2 A That's correct.

3 Q And you had names that you would call him; Rob?

4 A Yes.

5 Q Robert?

6 A Yes.

7 Q Kels?

8 A Yes.

9 Q And Daddy?

10 A At times.

11 Q At times Daddy, right?

12 A Yes.

13 Q And did Mr. Kelly ever tell you what to wear?

14 A Perhaps only on two occasions.

15 Q And what were those occasions?

16 A The first time I recall us talking about my dress where  
17 usually I would go in there, anything I wanted. I was around  
18 many different seasons and I could wear anything I wanted.  
19 And he had invited me to go out, so I had asked him what type  
20 of dress I should wear. I didn't know if it was a formal  
21 occasion or if it was casual, so I had asked him.

22 Q And you mentioned there was another occasion?

23 A Another occasion, he -- perhaps two, we were going to one  
24 of his events. And Rob is fashion-forward; that's his  
25 business, it's his brand to look a certain way. So he had



Kate - Cross - Cannick

2650

1 just mentioned we were all going to wear black.

2 Q Okay. Thank you.

3 A Thank you.

4 Q Now, there were times that you visited with him and you  
5 would have to wait for him?

6 A At times, yes.

7 Q And when you waited for him, those were -- sometimes  
8 could be long periods of time, am I correct?

9 A How -- like over a few minutes or?

10 Q Let me withdraw it.

11 When you would wait for Rob, were there bathroom  
12 facilities available to you?

13 A Yes, always.

14 Q You didn't have any issue using a restroom if you needed  
15 to use one, am I correct?

16 A You are correct. If I had to use the restroom, I would  
17 get up and go to the restroom.

18 Q And what about food?

19 A I would just call downstairs if I was hungry.

20 Q And they would get food to you?

21 A Yeah.

22 Q No long wait or anything like that, am I correct?

23 A Just the time it would take to take the order and one of  
24 his associates or drivers would go get it.

25 Q He never asked you to write any type of letters or

Kate - Cross - Cannick

2651

1 anything, did he?

2 A Never a letter, but...

3 (Continuing on the next page.)

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Kate - cross - Cannick

2652

1 EXAMINATION CONTINUES

2 BY MR. CANNICK:

3 Q Lyrics?

4 A Yes.

5 Q Lyrics to a song, right?

6 A Yes, on one occasion he asked me to help him write down,  
7 as he was singing to write down so, I believe, it could be  
8 published for the -- the recording studio.

9 Q So, just to be clear, he had a tune in his head?

10 A Uh-hum.

11 Q And he was trying to work on it?

12 A Uh-hum.

13 Q And he'd asked you to write it down as he moved forward  
14 with trying to capture it?

15 A Yes, as the music was playing and he was humming it or  
16 singing it in his head, he would start to record it and he had  
17 me write down the lyrics so he could refer back or they could  
18 be printed.

19 Q Thank you.

20 To your knowledge, Rob never took any pictures of  
21 you, am I correct?

22 A To my knowledge, no, it was -- we had not taken a photo  
23 together.

24 Q What about videos?

25 A Not that I'm aware of.

SAM

OCR

RMR

CRR

RPR

Kate - cross - Cannick

2653

1 Q Now, after you got the settlement from Robert, did you  
2 continue to date him?

3 A I did not see him face-to-face after the settlement.

4 Q But you wanted to continue to date him, right?

5 A Pardon me?

6 Q You wanted to continue to date him after the settlement?

7 A I had called him several occasions after.

8 Q Okay. Now, do you remember a telephone conversation that  
9 you had with Robert and he told you that the reason why he  
10 didn't want to see you and be around you was because he was  
11 trying to concentrate on his family and --

12 THE COURT: Mr. Cannick, can I see the parties at  
13 the side with the court reporter?

14 (Sidebar held outside the hearing of the jury.)

15

16 (Continued on the following page.)

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SAM

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Sidebar - Sealed by Order of the Court

2654

(The following sidebar took place outside the hearing of the jury and was sealed by Order of the Court.)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SAM

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Sidebar - Sealed by Order of the Court

2655

Age Group	Number of NRA Members (Approximate)
1	10
2	75
3	90
4	95
5	100
6	95
7	15
8	45
9	100
10	95
11	95
12	100
13	35
14	90
15	75
16	100
17	75
18	45
19	95
20	25
21	95
22	35
23	90
24	10
25	55

SAM

OCR

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Sidebar - Sealed by Order of the Court						2656
1	[REDACTED]					
2	[REDACTED]					
3	[REDACTED]					
4	[REDACTED]					
5	[REDACTED]					
6	[REDACTED]					
7	[REDACTED]					
8	[REDACTED]					
9	[REDACTED]					
10	[REDACTED]					
11	[REDACTED]					
12	[REDACTED]					
13	[REDACTED]					
14	[REDACTED]					
15	[REDACTED]					
16	[REDACTED]					
17	[REDACTED]					
18	[REDACTED]					
19	[REDACTED]					
20	[REDACTED]					
21	[REDACTED]					
22	[REDACTED]					
23	[REDACTED]					
24	[REDACTED]					
25	[REDACTED]					
	SAM	OCR	RMR	CRR	RPR	

Sidebar - Sealed by Order of the Court					2657
1	[REDACTED]				
2	[REDACTED]				
3	[REDACTED]				
4	[REDACTED]				
5	[REDACTED]				
6	[REDACTED]				
7	[REDACTED]				
8	[REDACTED]				
9	[REDACTED]				
10	[REDACTED]				
11	[REDACTED]				
12	[REDACTED]				
13	[REDACTED]				
14	[REDACTED]				
15	[REDACTED]				
16	[REDACTED]				
17	[REDACTED]				
18	[REDACTED]				
19	[REDACTED]				
20	[REDACTED]				
21	[REDACTED]				
22	[REDACTED]				
23	[REDACTED]				
24	[REDACTED]				
25	[REDACTED]				
SAM      OCR      RMR      CRR      RPR					



Sidebar - Sealed by Order of the Court					2658
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SAM      OCR      RMR      CRR      RPR					

Sidebar - Sealed by Order of the Court

2659

Age Group	Number of People
1	75
2	95
3	25
4	98
5	55
6	97
7	92
8	90
9	93
10	35
11	96
12	91
13	30
14	50
15	60
16	95
17	92
18	65
19	98
20	96
21	100
22	94
23	80
24	68
25	45

SAM

OCR

RMR

CRR

RPR

Sidebar - Sealed by Order of the Court						2660
1	[REDACTED]					
2	[REDACTED]					
3	[REDACTED]					
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7	[REDACTED]					
8	[REDACTED]					
9	[REDACTED]					
10	[REDACTED]					
11	[REDACTED]					
12	[REDACTED]					
13	[REDACTED]					
14	[REDACTED]					
15	[REDACTED]					
16	[REDACTED]					
17	[REDACTED]					
18	[REDACTED]					
19	[REDACTED]					
20	[REDACTED]					
21	[REDACTED]					
22	[REDACTED]					
23	[REDACTED]					
24	[REDACTED]					
25	[REDACTED]					
SAM      OCR      RMR      CRR      RPR						

SAM      OCR      RMR      CRR      RPR

Sidebar - Sealed by Order of the Court

2662

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(Sealed sidebar concluded.)

(Continued on the following page.)

SAM

OCR

RMR

CRR

RPR

Kate - cross - Cannick

2663

1 (In open court - jury present.)

2 MR. CANNICK: We're almost done.

3 BY MR. CANNICK:

4 Q Now, when you were visiting Mr. Kelly at the studios and  
5 he'd ask you to wait in a room, he gave you an explanation as  
6 to why he wanted you to wait?

7 MS. GEDDES: Objection.

8 THE COURT: To the simple fact did he give you an  
9 explanation, that's overruled. The objection is overruled.

10 You can answer.

11 Just yes or no, did he give you an explanation if he  
12 was late?

13 THE WITNESS: I'm sorry, could you repeat?

14 BY MR. CANNICK:

15 Q When you were waiting for Mr. Kelly in the room, he gave  
16 you a reason as to why he wanted you to wait in the rooms?

17 A He would never tell me to wait in the room.

18 Q Okay, okay.

19 MR. CANNICK: That's it, Your Honor, nothing more.

20 THE COURT: Any redirect?

21 MS. GEDDES: No, Your Honor.

22 THE COURT: Okay, thank you so much. You can step  
23 down.

24 (Witness stepped down and was excused.)

25 THE COURT: Are you ready to call your next witness?

SAM

OCR

RMR

CRR

RPR

Proceedings

2664

1 MS. SHIHATA: Yes. The Government calls John  
2 Mirandona.

3 THE COURT: John?

4 MS. SHIHATA: Mirandona.

5 THE COURT: While the witness is coming in, can I  
6 just see counsel at the time for just a second?

7 (Sidebar held outside the hearing of the jury.)

8

9 (Continued on the following page.)

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Sidebar

2665

1 (The following sidebar took place outside the  
2 hearing of the jury.)

3 THE COURT: The court reporters, who are always on  
4 the ball all the time, want to know which one of these  
5 conferences should be sealed?

6 I take it the last one should be sealed, the one  
7 that we just had the, the last sidebar.

8 Then we had a sidebar at the beginning.

9 MS. GEDDES: Today? Today we had a sidebar? I  
10 don't think we did.

11 THE COURT: Didn't we start with one?

12 MR. CANNICK: No, because Scholar was outside and I  
13 think the conversation was that if it's not something to today  
14 or coming in today.

15  
16 (Sidebar concluded.)

17  
18 (Continued on the following page.)  
19  
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SAM

OCR

RMR

CRR

RPR



Proceedings

2666

1 (In open court - jury present.)

2 (Witness entered and took the stand.)

3 THE COURT: Okay, did you swear him in yet?

4 THE COURTROOM DEPUTY: I did not.

5 THE COURT: Okay. I think they called him already.

6 THE COURTROOM DEPUTY: Please stand and raise your  
7 right hand.

8 Do you solemnly swear or affirm that the testimony  
9 you are about to give will be the truth, the whole truth, and  
10 nothing but the truth?

11 THE WITNESS: I do.

12 (Witness sworn.)

13 THE COURTROOM DEPUTY: Please state and spell your  
14 name.

15 THE WITNESS: John Mirandona, Jr. J-O-H-N,  
16 M-I-R-A-N-D-O-N-A, Junior.

17 THE COURT: Okay, you can sit down.

18 THE WITNESS: Thank you.

19 THE COURT: And you can also take your mask off.  
20 Just a couple of ground rules for your testimony.

21 Please don't speak too quickly, make sure you are  
22 using the microphone, that way the jury can hear you and our  
23 court reporter can take down everything that you say.

24 For the same reasons, don't talk over which person  
25 is asking you questions, just let them finish the question

Proceedings

2667

1 before you begin to answer.

2 If there is a question that is unclear or you want  
3 to have repeated, let me know that and I will have the lawyers  
4 ask a different question.

5 And then, just do your best to answer only the  
6 question that you are being asked.

7 Go ahead.

8 MS. SHIHATA: Thank you, Your Honor.

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10 (Continued on the following page.)

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Mirandona - direct - Shihata

2668

1 **JOHN MIRANDONA, JR.,**

2 called as a witness by the Government, having been  
3 duly sworn/affirmed by the Courtroom Deputy, was examined  
4 and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. SHIHATA:

7 Q Good morning.

8 A Good morning.

9 Q Are you currently employed?

10 A I am.

11 Q How are you employed?

12 A I am employed by the Department of Homeland Security as a  
13 criminal investigator.

14 Q And other than being a criminal investigator, do you have  
15 any other titles at the Department of Homeland Security?

16 A Supervisory special agent.

17 Q Do you work in a particular group?

18 A I do.

19 Q What is that?

20 A I supervise the Technical Services Group, which is made  
21 up of the Computer Forensics Unit and the Technical Operations  
22 Enforcement Unit.

23 Q And is this all part of a division known as Homeland  
24 Security Investigations?

25 A Yes.

SAM

OCR

RMR

CRR

RPR

Mirandona - direct - Shihata

2669

1 Q Now, how long have you worked for Homeland Security  
2 Investigations?

3 A I've worked for Homeland Security Investigations,  
4 Department of Homeland Security, and one of its legacy  
5 agencies, since November of 2000.

6 Q And how long have you held your current position as a  
7 supervisory special agent over the Technical Services Group?

8 A Since the beginning of November -- the beginning of 2014.

9 Q And apart from your -- well, you have supervisory  
10 responsibilities, correct?

11 A Yes.

12 Q And do you -- what type of personnel do you supervise?

13 A I supervise computer forensics analysts and technical  
14 enforcement operations officers.

15 Q And in your duties and responsibilities, apart from  
16 supervising computer forensic analysts, do you also engage in  
17 duties and responsibilities as a computer forensic analyst  
18 yourself?

19 A Yes.

20 Q And have you had training in the area of computer  
21 forensic analysis?

22 A Yes.

23 MS. SHIHATA: May I approach, Your Honor?

24 THE COURT: Yes.

25 BY MS. SHIHATA:

SAM

OCR

RMR

CRR

RPR

Mirandona - direct - Shihata

2670

1 Q I am going to show you what's in evidence as Government  
2 Exhibit 345.

3 A Thank you.

4 Q And having now looked at what I just handed you, do you  
5 recognize Government Exhibit 345?

6 (Exhibit published.)

7 A Yes, I do.

8 Q And what do you recognize this to be?

9 A To be the phone in question that I examined.

10 THE COURT: Can you just pull the microphone a bit  
11 closer to you?

12 THE WITNESS: Yes, I'm sorry.

13 THE COURT: Thanks so much.

14 BY MS. SHIHATA:

15 Q You conducted a forensic examination of this phone?

16 A I did.

17 Q And was this the phone that was seized from the  
18 defendant, Robert Kelly, at the time of his arrest?

19 A Yes.

20 MS. SHIHATA: Now, I am showing the witness only  
21 what's been marked for identification as Government Exhibit  
22 345(a).

23 Q Do you recognize this document?

24 A Yes.

25 Q What is this document?

Mirandona - direct - Shihata

2671

1 A It is the first page or the summary page of a forensic  
2 extraction report that I conducted.

3 Q And fair to say when you're conducting your forensic  
4 examination report, is it a computerized report that's  
5 generated?

6 A Yes.

7 Q And can portions of that report be printed out?

8 A Yes.

9 Q But generally, when you're looking at it, it's on a  
10 computer screen, is that right?

11 A Yes.

12 Q And you testified this is the extraction summary or a  
13 page -- the first page of the extraction summary of the  
14 report?

15 A Yes.

16 MS. SHIHATA: I move to admit Government  
17 Exhibit 345(a).

18 THE COURT: Any objection?

19 MR. CANNICK: No, no objection.

20 THE COURT: Okay, that's in evidence.

21 (Government's Exhibit 345(a) was received in  
22 evidence.)

23 MS. SHIHATA: And may we publish it, please?

24 (Exhibit published.)

25 BY MS. SHIHATA:

SAM

OCR

RMR

CRR

RPR

Mirandona - direct - Shihata

2672

1 Q Now, looking here (indicating), does this indicate that  
2 the phone you examined was an iPhone X with a certain serial  
3 number?

4 A Yes.

5 Q And you are listed here as the examiner, is that correct?

6 A Yes.

7 Q And going down, is there an Apple -- was there an Apple  
8 ID associated with this phone?

9 A Yes.

10 Q And is that SylvesterKelly12@icloud.com?

11 A Yes.

12 Q And then further down where it says, "last used MSISDN,"  
13 is the number +1-678-756-8219 listed?

14 A Yes.

15 Q And is that the last used number on that phone that you  
16 examined?

17 A Yes.

18 Q And finally on this page, does this indicate a time zone?

19 A Yes.

20 Q And what does that mean?

21 A That is the time zone that was set while the phone was in  
22 operation, and it's skewed based off universal time.

23 Q And here does it say, is the time zone listed as Chicago?

24 A It is Chicago, minus 6 UTC.

25 Q So, UTC minus 6, so Chicago time?

SAM

OCR

RMR

CRR

RPR

Mirandona - direct - Shihata

2673

1 A Yes.

2 Q And just to be clear, the phone number ending in 8219  
3 that we just spoke about, that's the last phone number that  
4 was associated with this phone, is that right?

5 A Yes.

6 MS. SHIHATA: May I approach, Your Honor?

7 THE COURT: Yes.

8 MS. SHIHATA: I am going to start by showing the  
9 witness what's been marked for identification as Government  
10 Exhibits 344(a) through 344(k), and 348(a) and 348(b).

11 THE WITNESS: I don't want to lick my fingers.

12 BY MS. SHIHATA:

13 Q Now, starting first with Government Exhibit 344(a), is  
14 this a portion of your extraction report of the phone, of  
15 Government Exhibit 345, that sets forth certain SMS messages  
16 and MMS messages between that phone and telephone number  
17 312-513-1020?

18 A Yes.

19 Q And are certain -- it's -- the document is several pages,  
20 correct?

21 A Yes.

22 Q And certain messages are redacted, is that right?

23 A Yes.

24 MS. SHIHATA: I move to admit Government  
25 Exhibit 344(a).

SAM

OCR

RMR

CRR

RPR



Mirandona - direct - Shihata

2674

1 MR. CANNICK: No objection.

2 THE COURT: That's in evidence. You can display it.

3 (Government's Exhibit 344(a) was received in  
4 evidence.)

5 (Exhibit published.)

6 BY MS. SHIHATA:

7 Q Okay, now, I'd also now like to show you what I handed  
8 you earlier, Government Exhibit 348(a).

9 Is this another extraction report from the forensic  
10 report you've done, but now in a chat view of SMS messages  
11 involving the Government Exhibit 345, the 8219 phone, and that  
12 same phone number that we discussed?

13 A Yes.

14 Q And fair to say that the redacted messages from 344(a)  
15 are excluded in 348(a)?

16 A Yes.

17 Q And now I'm showing you what you just looked at when I  
18 handed it to you, Government Exhibit 348(b).

19 Is this, again, now an extraction report based on  
20 your same full forensic report of MMS messages between the  
21 phone you examined, Government Exhibit 345, the 8219 phone,  
22 with that same phone number 312-513-1020 in chat format?

23 A Yes.

24 MS. SHIHATA: I move to admit Government Exhibits  
25 348(a) and (b).

Mirandona - direct - Shihata

2675

1 MR. CANNICK: No objection.

2 THE COURT: Okay, those are in evidence.

3 (Government's Exhibits 248(a) and 348(b) were  
4 received in evidence.)

5 BY MS. SHIHATA:

6 Q So, first of all, can you explain what an SMS message is?

7 A It is a simple text message, simple message service,  
8 between two devices.

9 Q And how about an MMS message, what's that?

10 A Multimedia message service, where it would be a simple  
11 message with an attachment, like a photo or just an attachment  
12 of a photo.

13 Q And the reports we just went through divide up the MMS  
14 and the SMS messages, is that right?

15 A Yes.

16 Q All right, so starting with Government Exhibit 348(a).

17 Now, the messages in green here (indicating), are  
18 these messages being sent from the device you examined to  
19 telephone number 312-513-1020?

20 (Exhibit published.)

21 A Yes.

22 Q And the first message, this is from October 21st, 2018,  
23 it says: Call me when you get this message.

24 Is that right?

25 A Yes.

Mirandona - direct - Shihata

2676

1 THE COURT: And if you want, it's in evidence, so  
2 you can just have him read it or whatever you like.

3 MS. SHIHATA: All right, got it.

4 BY MS. SHIHATA:

5 Q So, now, in this, the first page, there's a series of  
6 messages between these two numbers from October -- the first  
7 one was October 21st, then October 23rd, and these appear to  
8 be about meeting up.

9 So, the 1020 number texts the phone: Hey, Syl, I'm  
10 prepping to leave in about 15 minutes. It will be around  
11 1:30 pm when I arrive for our meeting. Is that cool???

12 And then a response of 2:30?

13 THE COURT: Just don't go too fast, okay.

14 MS. SHIHATA: All right.

15 THE COURT: I am not trying to throw you off your  
16 game, just read it slowly.

17 MS. SHIHATA: I don't think I need help with that.

18 THE COURT: Okay.

19 BY MS. SHIHATA:

20 Q Okay, 2:30 it is.

21 And then again another text message, saying: Hey,  
22 Syl, I'll arrive in the loop at 2:30. It will take me about  
23 10 to 15 minutes to walk to the building. Will you be ready  
24 at 2:45 or do you need more time?

25 And then some responses from the phone you examined,

Mirandona - direct - Shihata

2677

1 indicating times: 3:15; I'll be ready.

2 Okay, now I want to turn to Government Exhibit  
3 348(b).

4 MS. SHIHATA: And this is jury only, please.

5 BY MS. SHIHATA:

6 Q Do you see that in front of you?

7 A Yes.

8 Q And these are the MMS messages, correct?

9 A Yes.

10 MS. SHIHATA: If we could publish to the jury,  
11 please.

12 (Exhibit published to the jury only.)

13 Q These are the MMS multimedia messages, correct?

14 A Yes.

15 Q Now, these are -- this in green, this is a text message  
16 sent from the phone you examined to the telephone number  
17 312-513-1020, is that right?

18 A Yes.

19 Q And do there appear to be three images that were sent?

20 A Yes.

21 Q And the date of this message is October 26th, 2018, 10:34  
22 and 23 seconds a.m., correct?

23 A Yes.

24 THE COURT: Can I just ask you a question about the  
25 numbers on 348(a)?

SAM

OCR

RMR

CRR

RPR

Mirandona - direct - Shihata

2678

1           So, the green one, the top has the plus phone number  
2           that ends in 1020, and then the blue one also has the same  
3           thing.

4           What does that mean?

5           THE WITNESS: It indicates the number that the text  
6           is going to or the number that is sending --

7           THE COURT: I see.

8           THE WITNESS: -- or receiving. It identifies which  
9           phone is which.

10          MS. SHIHATA: So, Judge, maybe I can ask it clearer.

11          THE COURT: Okay.

12   BY MS. SHIHATA:

13   Q     So, I have in front of you now Government Exhibit 348(a),  
14           the second page which has both messages in both green and  
15           blue.

16           I think you testified earlier that the messages in  
17           green are the ones being sent by the phone you examined,  
18           correct?

19   A     Yes.

20   Q     And the number that appears up top that I'm pointing to  
21           (indicating), that's the number, the phone you examined is  
22           sending the text message to, is that right?

23   A     Correct.

24   Q     And then now looking at the text messages in blue, these  
25           are responses from that 1020 number to the -- to the phone

Mirandona - direct - Shihata

2679

1 that you examined, correct?

2 A Correct.

3 Q And so, the number here (indicating) indicates that this  
4 is the number sending the text message to the phone you  
5 examined, correct?

6 A Yes.

7 Q All right, so going back for a moment to Government  
8 Exhibit 348(b), you testified there were three images sent  
9 from the phone you examined to that 1020 number on October  
10 26th, 2018 at 10:34:23 a.m., correct?

11 A Yes.

12 Q And I have just zoomed in a little bit so you could see  
13 those photos a little bit more clearly.

14 MS. SHIHATA: I am now going to show the witness  
15 only what's been marked for identification as Government  
16 Exhibits 344(b), 344(c) and 344(d).

17 BY MS. SHIHATA:

18 Q So, I'm starting with 344(b), 344(c), and 344(d).

19 Are these photographs that you extracted from --  
20 during your forensic examination or that were extracted during  
21 your forensic examination and that were the photos that were  
22 sent in the MMS message we just went over?

23 A Yes, they are full-size versions of those attachments.

24 MS. SHIHATA: I move to admit Government  
25 Exhibits 344(b), (c) and (d).

SAM

OCR

RMR

CRR

RPR

Mirandona - direct - Shihata

2680

1 MR. CANNICK: No objection.

2 THE COURT: All right, those are in evidence.

3 (Government's Exhibits 344(b), 344(c) and 344(d)  
4 were received in evidence.)

5 THE COURT: Jury only?

6 MS. SHIHATA: Yes.

7 (Exhibit published to the jury only.)

8 MS. SHIHATA: And so, I'll start with 344(d).

9 (Published individually to the jury.)

10 MS. SHIHATA: 344(c).

11 (Published individually to the jury.)

12 MS. SHIHATA: And 344(b).

13 (Published individually to the jury.)

14 BY MS. SHIHATA:

15 Q Now, you testified earlier that the way these exhibits  
16 are set forth, the MMS messages and the SMS messages are  
17 separate, correct?

18 A Yes.

19 Q So, I'm showing you --

20 MS. SHIHATA: I'm showing the jury only again the  
21 first page of 348(b).

22 (Exhibit published to the jury only.)

23 Q Is there a second MMS message sent from the phone you  
24 examined to that same 1020 number on October 26th, 2018 at  
25 9:45:14 p.m.?

SAM

OCR

RMR

CRR

RPR

Mirandona - direct - Shihata

2681

1 A Yes.

2 Q And actually, I'm sorry, before we get to that, we went  
3 over this MMS message that was sent on October 26th, 2018 at  
4 10:34:23 a.m.

5 I am now going to turn to Government Exhibit 348(a),  
6 which is in evidence.

7 MS. SHIHATA: This can be for everyone.

8 (Exhibit published.)

9 BY MS. SHIHATA:

10 Q Looking at the second page, is there a response from that  
11 same 1020 number to the phone you examined on October 26th,  
12 2018 at 12:30:20 p.m. -- so, after those three images were  
13 sent -- that states: Oh my eyes!!! She's pathetic!!! Thank  
14 you for sending the tamed pictures!!!

15 And then following that another message from that  
16 1020 number to the phone you examined on October 26th, 2018 at  
17 2:48 p.m.

18 Question: Do you have a way of sending me one more  
19 picture showing her phone number at the top? I am going to  
20 print it and include it, along with the other three, and  
21 include them in the letter to her attorney. Do you agree that  
22 she should really know her client???

23 And then I am going to turn now back to Government  
24 Exhibit 348(b).

25 MS. SHIHATA: Jury only, please.



Mirandona - direct - Shihata

2682

1 (Exhibit published to the jury only.)

2 BY MS. SHIHATA:

3 Q The second message here, is that a message from the phone  
4 you examined to that same 1020 number on October 26th, 2018 at  
5 9:45 p.m., and what's sent to that number is two images?

6 A Yes.

7 MS. SHIHATA: Now, I am showing the witness only  
8 what's been marked for identification as Government Exhibit  
9 344(e) and 344(f).

10 BY MS. SHIHATA:

11 Q Are these the images that were sent in the SMS messages  
12 we just went over -- sorry, the MMS message we just went over?

13 A Yes.

14 MS. SHIHATA: I move to admit Government  
15 Exhibits 344(e) and (f)?

16 MR. CANNICK: No objection.

17 THE COURT: Okay, those are in evidence.

18 (Government's Exhibits 344(3) and 344(f) were  
19 received in evidence.)

20 MS. SHIHATA: And these can be published beyond the  
21 jury.

22 THE COURT: Okay.

23 (Exhibit published.)

24 BY MS. SHIHATA:

25 Q And at the top does this appear to be a text message

Mirandona - direct - Shihata

2683

1 exchange involving an individual saved in the phone, in the  
2 image of the text message, as Faith?

3 A Yes.

4 Q All right, now, turning back to Government Exhibit  
5 348(a), second page.

6 MS. SHIHATA: This can be for everyone.

7 (Exhibit published.)

8 BY MS. SHIHATA:

9 Q I am looking at now, focusing on the bottom text message  
10 sent from the phone you examined to the 1020 number on October  
11 26th, 2018 at 9:46:06 p.m. and it states:

12 I'm going to get you more, but let me know if you  
13 have any questions. The bottom of that is when she was trying  
14 to tell me she didn't want to do what she was doing out there  
15 in the media, so she was asking me can we make it stop.

16 And then turning to page 3 of Government Exhibit  
17 348(a), there is a response from the 1020 number to the phone  
18 you examined on October 26th, 2018 at 10:17:40 p.m., that  
19 states:

20 Make it stop is exactly what we are going to do with  
21 the paper work you signed and the letter to her attorney!!!  
22 She's is a very troubled individual that you hopefully will  
23 either block or keep at a far distance.

24 My mother used to say, "Feed 'em with a long-handled  
25 spoon!!!" Like Michael Jackson sang, "She's dangerous!!!"

SAM

OCR

RMR

CRR

RPR

Mirandona - direct - Shihata

2684

1 Now, I am switching back to Government Exhibit  
2 348(b).

3 MS. SHIHATA: This can be for everyone.

4 (Exhibit published.)

5 BY MS. SHIHATA:

6 Q This is the MMS messages now.

7 Is there a message from the phone you examined to  
8 the same 1020 number on October 26th, 2018 at 10:20:04 p.m.,  
9 and sending five images, is that correct?

10 A Yes.

11

12 (Continued on the following page.)

13

14

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25

SAM

OCR

RMR

CRR

RPR

Mirandona - Direct - Shihata

2685

1 DIRECT EXAMINATION (Continued.)

2 BY MS. SHIHATA:

3 Q I'm showing the witness only what's been marked for  
4 identification as Government Exhibit 344G, 344H, 344I, 344J,  
5 and 344K.

6 Are these the images that were sent by the phone you  
7 examined in the MMS message we just went over?

8 A Yes.

9 MS. SHIHATA: I move to admit Government  
10 Exhibits 344G through K.

11 MR. CANNICK: No objection.

12 THE COURT: Those are in evidence.

13 MS. SHIHATA: Thank you, your Honor.

14 (Government Exhibits 344G through K, were received  
15 in evidence.)

16 Q I'm just zooming in on the images we just -- in the MMS  
17 message we just went over and now I'll display 344K, 344J,  
18 344H, 344I, 344G.

19 Now I want to turn back to page 3 of Government  
20 Exhibit 348A.

21 Is there a text message from that same 1020 number  
22 to the phone that you did a forensic examination on from  
23 December 6, 2018 at 1:38:22 a.m. And focus on the second  
24 paragraph of that text message. It states, If you have no  
25 plans to reimburse Don for the truck rental would you please

Mirandona - Direct - Shihata

2686

1 communicate that directly to him. He's agitated about the  
2 situation and you're the one with the power to offer a remedy.  
3 Maybe you might consider enriching him for sabotaging the  
4 "Survivors" event and sending out cease and desist letters.  
5 Their whole production has fallen apart thanks to his actions.  
6 Whatever your thought process he deserves to hear it directly  
7 from you.

8           Then there is a response from the phone you examined  
9 to that same 1020 number on December 6, 2018 at 10:09:16 a.m.  
10 I will be more than happy to meet with Don but first me and  
11 you need to talk because I feel that I'm in a very awkward  
12 position as well, so if you can come by around 7:30 tonight  
13 that would be perfect. If not, just let me know when you can.  
14 Thanks, love you.

15           And then there is a response from the 1020 number on  
16 the same date at 10:15 a.m. Okay, I will make preparations to  
17 meet you this evening at 7:30 p.m. I'll confirm the time with  
18 George. Love you back at cha.

19           And then a response from the phone you examined same  
20 date, K.

21           Now I want to turn back to Government Exhibit 348B,  
22 the MMS message report, and looking now at the message in blue  
23 that's from the 1020 phone to the phone you examined, correct?

24 A Yes.

25 Q And that's from January 30, 2019 -- I'm sorry, that's

Mirandona - Direct - Shihata

2687

1 at -- sorry, January 30th, 2019 at 12:40:13 a.m. It states,  
2 Subject: Victorious, followed by three exclamation points.  
3 It states the paperwork you sent in not consenting to the  
4 contract and including a sample of pictures you received  
5 totally derailed the case exclamation point, exclamation  
6 point, exclamation point. Believe me, the paperwork has put a  
7 wrench in their program and struck fear in their minds. This  
8 has them wondering what else you are capable of, exclamation  
9 point, exclamation point. There are more hurdles to go but at  
10 least you can cross this one off the list.

11 Then there is a link to a TMZ website and it states,  
12 R. Kelly Criminal Case Closed NYC Sexual Assault, the name  
13 Faith, and then if we could now just have jury only, and a  
14 last name listed there, correct?

15 A Yes.

16 Q Now turning back to Government Exhibit 348A, page 3,  
17 these are the SMS messages. And turning to the last message  
18 on that page there is a response to the MMS message we just  
19 went over and this is dated January 30th, 2019 at 9 a.m. to  
20 that 1020 number from the phone you examined.

21 It states, Yes, everybody's been sending me that.  
22 I'll take any victory I can get.

23 This could be published. Sorry.

24 (Exhibit published.)

25 A Now turning to page 4 of Government Exhibit 348A, these

Mirandona - Direct - Shihata

2688

1 are the SMS messages again and on the top this is a message  
2 from the phone you examined to the 1020 phone from  
3 January 30th, 2019 at 9 a.m. I'm on my way back to sleep, if  
4 you can call me around seven, to that 1020 number.

5 And then below that now is a message, a redacted  
6 message from February 21st, 2019 at 1:17 a.m., this is from  
7 the 1020 number to the forensic phone -- to the phone you  
8 forensically examined, and it states, When the docu-series was  
9 aired and we answered with the Surviving Lies page on  
10 Facebook, the backlash was, quote, you never attack or stoop  
11 to the level of your adversarial opponent.

12 And then below that I'm not going to read each of  
13 these messages, but there are series of messages from  
14 March 15, 2019 between the phone you examined and the 1020  
15 number involving meeting up. And that continues on to page 5  
16 of the exhibit.

17 Your Honor, at this point I'd like to move to admit  
18 Government Exhibit 108A -- 108A as a certified business record  
19 of subscriber information from T-Mobile for telephone number  
20 (312)513-1020.

21 THE COURT: Any objection?

22 MR. CANNICK: No.

23 THE COURT: That's in evidence.

24 (Government Exhibit 108A was received in evidence)

25 Q And Agent Mirandona, the phone number that -- the text

Mirandona - Direct - Shihata

2689

1 communications between the phone you examined and a certain  
2 phone number that we just went over, that number was  
3 (312)513-1020, correct?

4 A Yes.

5 MS. SHIHATA: And now if I could publish Government  
6 Exhibit 108A.

7 (Exhibit published.)

8 MS. SHIHATA: This is subscriber information for  
9 that same phone number. The subscriber name listed is June,  
10 no middle name, Barrett, and an address 1826 South Millard  
11 Chicago, Illinois 60623. And activation date, 10/30/2012,  
12 termination date, 09/08/2019.

13 Now showing what's in evidence as Government  
14 Exhibit 231A, jury only. This is a notice of delivery page,  
15 in the bottom there's a signature and a name June Barrett,  
16 care of 1826 South Millard Avenue, Chicago, Illinois with a  
17 phone number (312)513-1020 and the email  
18 junespointofview@yahoo.com.

19 Turning to the third page, a signature and notary  
20 stamp for a June A. Barrett. Same thing on the next page.

21 And the following page, and the last two pages of  
22 this exhibit.

23 And the second page of the exhibit dated  
24 October 22nd, 2018 to Lydia C. Hills, Esquire.

25 I'm now showing the witness only what's been marked



Mirandona - Direct - Shihata

2690

1 for identification as Government Exhibits 337 and 337A. Do  
2 you recognize these documents?

3 A Yes.

4 Q And starting with 337, what is this?

5 A It is a printout of part of the forensic extraction  
6 report.

7 Q Is this printout related to a particular image that was  
8 saved on the phone you examined?

9 A Yes.

10 Q Is there a -- does this include the metadata associated  
11 with the phone?

12 A Yes.

13 Q -- sorry, with the image?

14 A Yes.

15 Q Is there a thumbnail of the image as well?

16 A Yes.

17 Q I'm now showing you 337A, is that just a full photo of  
18 the thumbnail image?

19 A Yes.

20 MS. SHIHATA: I move to admit Government Exhibits  
21 337 and 337A.

22 MR. CANNICK: No objection.

23 THE COURT: Okay. Those are in evidence. You can  
24 publish them.

25 (Government Exhibits 337 and 337A were received in

Mirandona - Direct - Shihata

2691

1 evidence.)

2 THE COURT: Can this go to everybody?

3 MS. SHIHATA: Yes. Thank you.

4 THE COURT: Okay.

5 Q Starting with 337, there's an image. This is the image  
6 in question that was saved on the phone that this metadata  
7 relates to?

8 A Yes.

9 Q And 337A, does this appear to be a photo of a driver's  
10 license for Robert S. Kelly?

11 A It appears to be.

12 Q And the address listed is 219 North Justine Street,  
13 Chicago, Illinois 60607.

14 I'm now showing the witness only what's been marked  
15 for identification as Government Exhibit 338 and 338A.

16 Is Government Exhibit 338 a portion of your report  
17 related to a certain image saved on the phone you examined and  
18 the metadata associated with that image?

19 A Yes.

20 Q And is there a thumbnail of the image in 338?

21 A Yes.

22 Q Is Government Exhibit 338A just a full size photo of that  
23 thumbnail image that was saved on the phone?

24 A Yes.

25 MS. SHIHATA: I move to admit Government Exhibits

Mirandona - Direct - Shihata

2692

1 338 and 338A.

2 MR. CANNICK: No objection.

3 THE COURT: All right. Those are in evidence.

4 (Government Exhibits 338 and 338A were received in  
5 evidence.)

6 MS. SHIHATA: And we would publish it. Thank you.

7 THE COURT: You want it published to the jury only?

8 MS. SHIHATA: This can be for everyone.

9 THE COURT: Okay.

10 (Exhibit published.)

11 BY MS. SHIHATA:

12 Q So starting with Government Exhibit 338. Is this just  
13 the file name for the image that was saved on the phone?

14 A Yes.

15 Q And this is the image here --

16 A Yes.

17 Q -- thumbnail of the image.

18 All right. Just so the jury is clear, the dates on  
19 top where it says created and modified that relate to 2021, is  
20 that -- are those dates referring to creation and printing of  
21 the report?

22 A No.

23 Q What does that refer to?

24 A Oh, I'm sorry, yes.

25 Q Up here --

Mirandona - Direct - Shihata

2693

1 A Yes.

2 Q -- yes?

3 And then the dates here under additional file info,  
4 is that the dates and times associated with this image?

5 A Yes.

6 Q Now turning to 338A. Does this appear to be a photograph  
7 of a driver's license and a document underneath for an  
8 individual named Cavonttey Alicia Jones?

9 A It does appear to be.

10 Q Then there is a document underneath with a signature and  
11 a printed name Cavonttey Jones and an address.

12 Again, this was recovered from the phone you  
13 examined, correct, the 8219 phone?

14 A Yes.

15 MS. SHIHATA: No further questions.

16 THE COURT: All right. Do you have a lot? It's  
17 about time for the morning break.

18 MR. CANNICK: We can take a break.

19 THE COURT: All right, folks.

20 MR. CANNICK: I don't want to -- I have no  
21 questions.

22 THE COURT: You have no questions. All right.

23 The witness can step down and we'll take our morning  
24 break about 10 minutes. Please don't talk about the case at  
25 all.

Mirandona - Direct - Shihata

2694

1 (Whereupon the witness was excused.)

2 THE COURTROOM DEPUTY: All rise.

3 (Jury exits courtroom.)

4 THE COURT: Everybody can have a seat.

5 How many more witnesses have you got?

6 MS. SHIHATA: We have two, your Honor.

7 THE COURT: It seemed like we can fit them in before  
8 lunch, don't you think?

9 MS. SHIHATA: Yes.

10 THE COURT: Anything that anybody wants to raise  
11 before we break just for the morning, just the morning break,  
12 nothing? Okay. Great.

13 (Recess.)

14 THE COURTROOM DEPUTY: All rise.

15 THE COURT: Everybody can have a seat.

16 While we're trying to sort out the technical issue  
17 with the pink mark, we can bring the witness in.

18 Who is it by the way?

19 MS. SHIHATA: Stephen Flatley.

20 THE COURT: We fixed the problem.

21 Who is your next witness?

22 MS. SHIHATA: Stephen Flatley.

23 THE COURT: Flatley, okay. Then let's get the  
24 jurors.

25 (Jury enters courtroom.)

Mirandona - Direct - Shihata

2695

1 THE COURTROOM DEPUTY: All rise.

2 You maybe seated.

3 THE COURT: All right, everybody, we are ready to  
4 continue with the next witness. The witness is here but could  
5 you call him please.

6 MS. SHIHATA: Yes, the government calls Stephen  
7 Flatley.

8 THE COURTROOM DEPUTY: Please stand and raise your  
9 right hand.

10 (Witness sworn.)

11 THE WITNESS: I do.

12 (Continued on the next page.)  
13  
14  
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22  
23  
24  
25

Flatley - Direct - Shihata

2696

1           **STEPHEN FLATLEY**, having been first duly sworn, was  
2 examined and testified as follows:

3           THE COURTROOM DEPUTY: You may be seated.

4           THE COURT: Just a couple of things before we get  
5 started. I just want to make sure everyone can hear you, so  
6 obviously speak in the microphone.

7           Don't speak too fast, it makes it harder for the  
8 court reporter to take down everything that you're saying.

9           If there's a question you want to have repeated or  
10 that isn't clear just tell me and I'll have the lawyer  
11 rephrase.

12           Just do your best to answer only the question you're  
13 being asked, okay?

14           THE WITNESS: Yes, your Honor.

15           THE COURT: Go ahead.

16           MS. SHIHATA: Judge before I start with this witness  
17 there is one exhibit, 344A, that I laid the foundation for  
18 with the last witness but forgot to offer. I discussed it  
19 with Mr. Cannick so the government now would offer Government  
20 Exhibit 344A.

21           MR. CANNICK: No objection.

22           THE COURT: That's in evidence.

23           (Government Exhibit 344A was received in evidence.)

24 DIRECT EXAMINATION

25 BY MS. SHIHATA:

Flatley - Direct - Shihata

2697

1 Q Good afternoon.

2 A Good afternoon.

3 Q Are you currently employed?

4 A Yes, I am.

5 Q Where do you work?

6 A I work for the Federal Bureau of Investigation, New York  
7 division.

8 Q And what is your title at the FBI?

9 A I am an information technology specialist, forensic  
10 examiner for the Computer Analysis Response Team or CART.

11 Q How long have you been doing that for?

12 A For 16 years.

13 Q And as part of your responsibilities do you receive  
14 training in forensic examination?

15 A Yes, we do.

16 Q Is that including of cell phones and other devices?

17 A Yes, ma'am.

18 Q Do your duties include conducting forensic examinations  
19 of electronic devices?

20 A Yes, they do.

21 MS. SHIHATA: I want to show the witness only what's  
22 been marked for identification as Government Exhibit 913.

23 May I approach?

24 THE COURT: Yes.

25 Q Prior to your testimony here today, have you had an



Flatley - Direct - Shihata

2698

1 opportunity to review Government Exhibit 913?

2 A Yes, I have.

3 Q Is Government Exhibit 913 an excerpted portion of a  
4 forensic examination report that you made?

5 A Yes, it is.

6 Q And is that in relation to an Apple iPhone with serial  
7 number FCDR20N2GRWN?

8 A Yes, ma'am.

9 MS. SHIHATA: I move to admit Government  
10 Exhibit 913.

11 THE COURT: Any objection?

12 MR. CANNICK: No objection.

13 THE COURT: That's in evidence. Do you want it  
14 published?

15 MS. SHIHATA: Yes, please.

16 THE COURT: Jury only or everybody?

17 MS. SHIHATA: This can be everybody.

18 (Government Exhibit 913 was received in evidence.)

19 (Exhibit published.)

20 Q So now looking at the first page of Government  
21 Exhibit 913, does it here indicate that you're the examiner  
22 that created this extraction?

23 A That's correct.

24 Q And where it -- under the part, heading that says device  
25 information the Apple ID is listed as ib.drussell@iCloud.com.

Flatley - Direct - Shihata

2699

1 What is an Apple ID?

2 A So an Apple ID is usually an email address that  
3 identifies you uniquely to Apple. So if you have an iPhone or  
4 a MacBook Pro or something like that, they use that to track  
5 you and to backup your information for your apps and for other  
6 things like that.

7 Q And then looking down further on this there's a serial  
8 number for the phone you examined an IMEI number -- one  
9 moment. Can you explain what an IMEI number is?

10 A Sure. The IMEI is the International Mobile Equipment  
11 Identifier. It is the number that the phone is -- it's like a  
12 serial number for that phone for the phone system, for the GSM  
13 system.

14 Q So is it unique to the phone?

15 A Yes, it is.

16 Q Now, under device information there's last used MSISDN  
17 and a phone number +1(312)975-5608, is that the last phone  
18 number associated with the phone you examined?

19 A Yes, it is.

20 Q And by the way, you testified earlier about the IMEI  
21 number. Are you also familiar, based on your training and  
22 experience, with something called an ESN number?

23 A Yes, that is the Electronic Serial Number.

24 Q Can you explain to the jury what that is.

25 A So an ESN -- it gets a little bit of alphabet soup, but

Flatley - Direct - Shihata

2700

1 the ESN is for a different kind of cellular network. So, for  
2 instance, Verizon is on what is called a CDMA network, and  
3 AT&T is on a GSM network, and a phone that is on the CDMA  
4 network would have an ESN, whereas a phone that is on the GSM  
5 network has an IMEI.

6 Q Is it -- apart from network is it unique to a particular  
7 phone, that ESN number?

8 A Yes. It is.

9 Q We just went over the last phone number associated with  
10 this phone you examined, this (312)975-5608 number.

11 MS. SHIHATA: Your Honor, at this point I'd like to  
12 offer Government Exhibit 132A which is a certified business  
13 record from T-Mobile for subscriber information for that  
14 number.

15 MR. CANNICK: No objection.

16 THE COURT: Okay, that's in evidence.

17 (Government Exhibit 132A was received in evidence.)

18 Q I'm just turning to page 3 of that exhibit. And this is  
19 information for the subscriber associated with (312)975-5608.  
20 Subscriber name is Indy Build Corp. With an address in  
21 Chicago, Illinois. Activation date 6/12/2018. Termination  
22 date, 7/14/2019, and a device number listed is  
23 353332074522087.

24 Now I'm putting back on the screen Government  
25 Exhibit 913 and that corresponds with the IMEI number on this

Flatley - Direct - Shihata

2701

1 report.

2 Now turning to page 2 of Government Exhibit 913,  
3 under the section that says, Contents, is this simply a  
4 summary of the types of content you were able to extract from  
5 this phone?

6 A Yes, that's what it is.

7 Q And in the part where it says, Chats, iMessage and a  
8 phone number ending 5608, is that the phone number that the  
9 phone used to engage in iMessage chats?

10 A Yes, it is.

11 Q I'm going to turn to the fifth page of the report.  
12 Sorry, for the jury only please.

13 Now does this -- obviously there's some redactions  
14 on this page; is that right?

15 A Yes, ma'am.

16 Q Now focusing on the two chats in -- chat messages in  
17 blue, are those coming from a number (786)502-5659 to the  
18 phone you examined?

19 A Yes, that's correct.

20 Q And these are two messages and the first one was sent on  
21 December 21st, 2018 at 9:50, and the second message,  
22 December 21st, 2018 at 9:50 as well?

23 A Correct.

24 Q And where it says the name Shotwell, Ryan, is that --  
25 what does that signify?

Flatley - Direct - Shihata

2702

1 A That was the contact name put in the contacts for that  
2 particular person in the phone.

3 Q So that's -- this number is saved in the phone under that  
4 name; is that correct?

5 A Correct.

6 Q And then under where there is a name Kelly with a last  
7 name that I won't say out loud and a phone number beginning in  
8 210, where it says Status read and a date read, 12/21/2018,  
9 11:17, what does that signify the status and the read?

10 A The status signifies that the message was received by who  
11 it was sent to and that they actually read it and the time and  
12 date when that occurred.

13 Q And then the second message there's another name Faith  
14 followed by a last name that I won't read out loud and another  
15 number beginning in 210, and that also indicates status read,  
16 correct?

17 A That is correct.

18 Q Now I'm turning to another page of the exhibit, this is  
19 from the contact section of the phone, correct?

20 A That's correct.

21 Q And what's listed here is a contact June Barrett and a  
22 telephone number (312)513-1020 and email  
23 JBarrett@indybuild.com?

24 A That's correct.

25 Q Now turning to the next page of the exhibit, this is also

Flatley - Direct - Shihata

2703

1 part of the contacts section, correct?

2 A Yes, it is.

3 Q There is a contact saved as RSK with a phone number  
4 1(678)756-8219.

5 A That's correct.

6 Q Now turning to another page under the contact section  
7 there is a contact Shotwell, Ryan -- this can be for everyone,  
8 I'm sorry.

9 -- and there's an email address associated with the  
10 contact, kashmicouture@iCloud.com, then three different  
11 numbers associated with that contact, correct?

12 A That's correct.

13 MS. SHIHATA: Your Honor, I'd like to offer  
14 Government Exhibit 915 as a certified business record from  
15 Apple related to the kashmicouture@gmail -- sorry, related to  
16 an iCloud account.

17 THE COURT: Any objection?

18 MR. CANNICK: No.

19 THE COURT: Okay, that's in evidence.

20 (Government Exhibit 915 was received in evidence.)

21 MS. SHIHATA: I'd like to publish Government  
22 Exhibit 915.

23 (Exhibit published.)

24 Q And here is an email address listed at  
25 kashmicouture@gmail.com associated with first name Cavonttey

Flatley - Direct - Shihata

2704

1 and the last name Jones and also Kash Jones and an address,  
2 same address throughout.

3 Turning to another page of Exhibit 913 and here you  
4 have a section called User Accounts. What does that section  
5 show?

6 A So if you have an email account or some app that has a  
7 user name and password or some other identifying information  
8 like that, the phone will keep it in one particular spot  
9 called the key chain and it will display it when we run it  
10 through -- it won't give us the passwords, but it will give us  
11 the user names associated with it.

12 Q Looking here, is there a user account associated with a  
13 Yahoo.com?

14 A Yes, there is.

15 Q And the user name is Colon Dunn?

16 A Right.

17 Q And also then a user account associated with My AT&T with  
18 the email address ib.drussell@gmail.com?

19 A That's correct.

20 Q Now I'm turning to the next page. Does this section  
21 include various types of communications sent by the phone you  
22 examined or received by the phone you examined?

23 A Yes, it does.

24 Q And at the top, the top one, is that an email or listed  
25 under 332, is that an email from December 4th, 2018 from

Flatley - Direct - Shihata

2705

1 ib.drussell@gmail.com, Don Russell, to kashtaughtme@gmail.com,  
2 Kash Jones, forwarding something titled The Survivors Exposed?

3 A Correct.

4 MS. SHIHATA: And your Honor, I'd like to offer  
5 Government Exhibit 914C, certified business records from -- of  
6 subscriber information from Google for kashtaughtme@gmail.com.

7 MR. CANNICK: No objection.

8 THE COURT: That's in evidence also. You can  
9 publish. Do you want to publish it?

10 MS. SHIHATA: I will publish it very briefly.

11 THE COURT: Whatever you want to do.

12 \* (Government Exhibit 914C was received in  
13 evidence.)

14 (Exhibit published.)

15 Q And here the name associated with kashtaughtme@gmail.com  
16 is listed as Kash Jones.

17 Looking below at another email listed as 1333,  
18 forwarded from don@indybuild to ib.drussell -- Don Russell--  
19 @gmail.com. It's an email signed, Respectfully, Don Russell  
20 President/CEO Indy Build Corp. With the number (312)975-5608.

21 And just turning back to the first page of  
22 Government Exhibit 913, that's the last used phone number of  
23 the phone you examined, correct?

24 A That's correct.

25 Q Going back to this page with the various communications,



Flatley - Direct - Shihata

2706

1 I'm going to turn to the communication here 1342, which is an  
2 incoming email to ib.drussell@gmail.com the subject line,  
3 alternate email address removed from your account. It says,  
4 Hi, Colon, the following alternate email address was removed  
5 from your Yahoo account, with an i, then some stars,  
6 ll@gmail.com. This email charge was made on December 4th,  
7 2018.

8 And finally, I'm going to turn to the last page of  
9 the exhibit, where I'm pointing next to the number eight, what  
10 are we looking at here?

11 A This is -- my mic died.

12 THE COURT: We'll fix it.

13 THE WITNESS: Sorry about that.

14 BY MS. SHIHATA:

15 Q What are we looking at here?

16 A This is a thumbnail of a video that was taken by the  
17 phone or at least by an iPhone 6S Plus that was on this --  
18 that was saved on this phone that I examined.

19 Q So this video was saved on the device you examined; is  
20 that correct?

21 A Yes.

22 Q Here it is just a thumbnail of that video?

23 A Correct.

24 MS. SHIHATA: I'm now going to show you Government  
25 Exhibit 913A, which I think we need to switch to...this is for

Flatley - Direct - Shihata

2707

1 witness only, witness only.

2 Q Prior to your testimony here today, did you have an  
3 opportunity to view the video that we just went over that was  
4 saved in the report -- sorry, saved in the phone you examined?

5 A Yes, I did.

6 Q And is what I'm showing you the video that was extracted  
7 from that phone?

8 A Yes, it is.

9 MS. SHIHATA: I would offer 913A.

10 MR. CANNICK: No objection.

11 THE COURT: All right.

12 MS. SHIHATA: If we could play it, jury only please.

13 (Government Exhibit 913 was received in evidence.)

14 (Video recording played; video recording stopped.)

15 MS. SHIHATA: I think it's only a few seconds so I  
16 paused it.

17 Now, your Honor, at this point I would offer  
18 Government Exhibit 916, which is certified business records  
19 from Google subscriber information for the email account  
20 ib.drussell@gmail.com.

21 MR. CANNICK: No objection.

22 THE COURT: That's in evidence.

23 (Government Exhibit 916 was received in evidence.)

24 MS. SHIHATA: And if I could publish it please.

25 THE COURT: Sure.

Flatley - Direct - Shihata

2708

1 (Exhibit published.)

2 MS. SHIHATA: And looking at that subscriber  
3 information for ib.drussell@gmail.com, the subscriber name is  
4 Don Russell.

5 And now I would offer Government Exhibit 816 as a  
6 certified official record, a birth certificate for Donnell  
7 Russell.

8 THE COURT: Any objection?

9 MR. CANNICK: No objection.

10 (Government Exhibit 816 was received in evidence.)

11 (Exhibit published.)

12 Q And here's the name of the person for the birth  
13 certificate, Donnell Anton Shedale Russell, and mother's name,  
14 June Annette Barrett.

15 MS. SHIHATA: No further questions.

16 THE COURT: Any cross examination?

17 MR. CANNICK: None.

18 THE COURT: Okay, the witness can step down.

19 (Whereupon the witness was excused.)

20 (Continued on the next page.)

21

22

23

24

25

Proceedings

2709

1 (In open court.)

2 THE COURT: Do you have an additional witness to  
3 call?

4 MS. GEDDES: Yes, Your Honor. The government calls  
5 Rosanna Corrado.

6 (Witness enters the room.)

7 THE CLERK: Raise your right hand for me, please.

8 Do you solemnly swear or affirm that the testimony  
9 you're about to give will be the truth, the whole truth and  
10 nothing but the truth?

11 THE WITNESS: I do.

12 (Witness sworn.)

13 THE CLERK: You may be seated.

14 THE COURT: You can take your mask off.

15 All right. Just a couple of things.

16 Please make sure that you are speaking into the  
17 microphone. I want to make sure everybody can hear you.

18 Do not talk too fast. I want to make sure the court  
19 reporter can get down everything that you have to say.

20 If there is something that someone asks you that is  
21 not clear or you would like to have repeated, just let me  
22 know.

23 And do your best just to answer only the question  
24 you are being asked. Okay?

25 Go ahead.

Corrado - Direct - Geddes

2710

1 MS. GEDDES: Thank you.

2 ROSANNA CORRADO, having been first duly sworn, was examined  
3 and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. GEDDES:

6 Q Good afternoon.

7 By whom are you employed?

8 A I am employed by DANY, the District Attorney's Office of  
9 New York, and I am assigned to HSI.

10 THE COURT: Sorry, which one? I did not hear what  
11 you said.

12 THE WITNESS: Oh, sorry.

13 THE COURT: I do not know if your mike is working.

14 I think it is. I think you need to speak up a  
15 little bit.

16 THE WITNESS: Is that better?

17 THE COURT: Yes.

18 THE WITNESS: Okay. Sorry.

19 THE COURT: Which unit are you assigned to?

20 THE WITNESS: I am employed DANY, the District  
21 Attorney's Office of New York, and I am assigned to Homeland  
22 Security.

23 THE COURT: Go ahead.

24 Q And how long have you been assigned to Homeland Security?

25 A It will be two years in October.

Corrado - Direct - Geddes

2711

1 Q And what do you do for them?

2 A I am an intelligence analyst.

3 Q Have you participated in an investigation of Robert  
4 Kelly?

5 A Yes, I have.

6 Q And as part of your investigation, have you reviewed  
7 telephone records?

8 A Yes, I have.

9 MS. GEDDES: The government offers, pursuant to  
10 Federal Rule of Evidence 803(6) and 902(11), Government  
11 Exhibit 101(a) and (b), 102(a), 103(a), 104(a), 105(a) and  
12 (b), 107(a), 109(a) and (b), 110(a) and (b), 111(a), 112(a),  
13 113(a), 114(a), 115(a) and (b), 116(a) and (b), 117(a) and  
14 (b), 118(a) and (b), 119(a) and (b), 120(a) and (b), 120(a),  
15 122(a) and (b), 123(a), 124(a).

16 THE COURT: Slow down just a little.

17 MS. GEDDES: Sorry.

18 THE COURT: That's alright.

19 MS. GEDDES: 125(a) and (b), 126(a) and (b), 127(a),  
20 128(a), 129(a), 130(a), (b) and (c), 131(a), 133(a), 134(a),  
21 135(a), 136(a), 137(a), 138(a), 139(a), 140(a), 141(a),  
22 142(a), 143(a), and 152(a), all of which are telephone  
23 records.

24 THE COURT: Any objection?

25 MR. CANNICK: No.

Corrado - Direct - Geddes

2712

1 THE COURT: Okay. Those are in evidence.

2 (Government Exhibits 101(a) and (b), 102(a), 103(a),  
3 104(a), 105(a) and (b), 107(a), 109(a) and (b), 110(a) and  
4 (b), 111(a), 112(a), 113(a), 114(a), 115(a) and (b), 116(a)  
5 and (b), 117(a) and (b), 118(a) and (b), 119(a) and (b),  
6 120(a) and (b), 120(a), 122(a) and (b), 123(a), 124(a),  
7 125(a) and (b), 126(a) and (b), 127(a), 128(a), 129(a),  
8 130(a), (b) and (c), 131(a), 133(a), 134(a), 135(a), 136(a),  
9 137(a), 138(a), 139(a), 140(a), 141(a), 142(a), 143(a), and  
10 152(a) were received in evidence.)

11 MS. GEDDES: I am showing, the witness only, what's  
12 been marked for identification as Government Exhibit 149.

13 Q Can you see that or do you want me to bring it to you?

14 A No, it's okay, I can see it.

15 Q Do you recognize what's shown in 149?

16 A Yes.

17 Q And just generally speaking, what is shown there?

18 A It is a summary chart of the excerpts of some of the  
19 telephone records that I reviewed.

20 Q And does it relate to -- does it show contact between two  
21 particular numbers and four other numbers?

22 A Yes.

23 Q Five other numbers?

24 A Yes.

25 MS. GEDDES: The government offers Government

Corrado - Direct - Geddes

2713

1 Exhibit 149.

2 THE COURT: Any objection?

3 MR. CANNICK: None.

4 THE COURT: Okay. That is in evidence.

5 (Government Exhibit 149 was received in evidence.)

6 MS. GEDDES: And may I publish, please?

7 Q So you testified that these are -- this is a summary  
8 chart showing contact between two numbers and five other  
9 numbers.

10 I want to start with those two numbers. There's one  
11 ending in 337-9300 and one ending in 747-6569. And I am going  
12 to show what's in evidence as Government Exhibit 482. I'll  
13 put it right below. And that same number ending in 9300 is  
14 saved as a telephone number for Rob under phone mobile home,  
15 and that number ending in 6569 is saved as a number for the  
16 studio. And then you testified that this document shows  
17 telephone records between those two numbers, the 9300 and 6569  
18 telephone numbers, and five other telephone numbers, the first  
19 one of which ends in 2117.

20 And I am going to show what's in evidence as  
21 Government Exhibit 210(p). And before I do, just to remind, I  
22 am going to put on -- these are all in evidence. Government  
23 Exhibit 210(d) is a photograph taken from -- saved on a cell  
24 phone. And then from that same series is 210(p) and it lists  
25 a phone number, (630) 886-2837, which is one of the telephone



Corrado - Direct - Geddes

2714

1 numbers listed in Government Exhibit 149.

2 And I am now going to show what's in evidence as  
3 Government Exhibit 133(a), which is subscriber information for  
4 that same telephone number ending in 2837, and it lists an  
5 electronic serial number, also known as an ESN. And it's a  
6 long number and it ends in 5518.

7 And I am now going to show Government Exhibit 140(a)  
8 and 141(a), both of which are in evidence. And this -- just  
9 beginning with 140(a), this is subscriber records for  
10 (630) 379-1136, another telephone number listed in Government  
11 Exhibit 149. And this subscriber record for the phone number  
12 ending in 1136 also includes an ESN, and it is the same  
13 electronic serial number as that listed in the prior exhibit  
14 for the phone number ending in 2837. And that one also,  
15 that's the same number, it ends in 5518, much longer number.

16 And then I am going to show you Government Exhibit  
17 141(a), also in evidence, which is another subscriber record.  
18 This one is for a telephone number ending in 2407, and that  
19 phone number -- it's hard to see with the small type. And  
20 that phone number is also listed in Government Exhibit 149 as  
21 one of the phone numbers for which the summary was provided.

22 And going back to 141(a), there is also an ESN  
23 listed for that particular phone number and, like the other  
24 two numbers, it's the same electronic serial number ending in  
25 5518.

Corrado - Direct - Geddes

2715

1           In addition, there are three other telephone numbers  
2 listed on Government Exhibit 149. One of those telephone  
3 numbers is ending in 2117, and that -- I am going to show  
4 Government Exhibit 131(a) now, in evidence, which is another  
5 subscriber record. This is a subscriber record for that  
6 telephone number ending in 2117 and it lists the name of the  
7 subscriber as Lutrinia Woods at an address in Streamwood,  
8 Illinois.

9           And then I am going to show what's in evidence as  
10 Government Exhibit 111(a), which is a subscriber record for  
11 another telephone number listed -- actually, this phone number  
12 is not listed in the exhibit, so I won't go through it.

13           And the government also offers, as a certified  
14 official record, Government Exhibit 813.

15           THE COURT: Any objection?

16           MR. CANNICK: No.

17           THE COURT: Okay. It is in evidence.

18           (Government Exhibit 813 was received in evidence.)

19           MS. GEDDES: May I publish?

20           THE COURT: Yes.

21           MS. GEDDES: And this is a certification of a birth  
22 record for Jerhonda Johnson and the mother's name is listed as  
23 Lutrinia Woods.

24 Q       And just directing your attention to Government  
25 Exhibit 149 --

Corrado - Direct - Geddes

2716

1 MS. GEDDES: Oh, actually there's -- I'm sorry,  
2 there's one additional phone number listed on this summary  
3 chart and that is one ending in 5655.

4 And may I show, the witness only, what's been marked  
5 for identification as Government Exhibit 160?

6 Q Do you recognize what's shown in Government Exhibit 160?

7 A Yes, I do.

8 Q And what is that?

9 A It is a frequency chart that I created.

10 Q And is it a frequency chart showing the telephone numbers  
11 that were frequently in contact with telephone number (630)  
12 336-5655 between a certain period?

13 A Yes.

14 MS. GEDDES: The government offers Government  
15 Exhibit 160.

16 MR. CANNICK: No objection.

17 THE COURT: Okay. That is in evidence.

18 (Government Exhibit 160 was received in evidence.)

19 MS. GEDDES: And may I publish?

20 THE COURT: Yes.

21 Q And there are several telephone numbers listed on  
22 Government Exhibit 160. Does this show all of the telephone  
23 numbers that were in contact with 5655 during that time  
24 period?

25 A No, it just shows the most frequent numbers that were in

Corrado - Direct - Geddes

2717

1 contact.

2 Q And so does this one list -- when it says count, what  
3 does that refer to?

4 A It refers to the amount of communications those numbers  
5 had with the 5655 number in the time periods listed in the min  
6 date, max date columns.

7 Q And when it says min date, is that the first date in that  
8 period of June 12, 2009 to July 9, 2009 when there was a  
9 contact between that particular contact I.D. and the 5655  
10 telephone?

11 A Correct.

12 Q And where it says the max date, is that the end date  
13 between that time period between June 12 to July 9 that there  
14 was a contact between that particular contact I.D. and the  
15 5655 telephone?

16 A Yup.

17 Q All right. The second telephone number listed ends in  
18 1900; is that correct?

19 A Yes.

20 MS. GEDDES: And I'm showing what's in evidence as  
21 210(x).

22 Q And is that that same telephone number ending in 1900?

23 A Yes.

24 MS. GEDDES: And it's saved in the telephone as  
25 Keyonia.

Corrado - Direct - Geddes

2718

1 And there's also, below that, some contact with a  
2 telephone number ending in 6519. And I'm showing what's in  
3 evidence as 210(y), and this is a photograph of a contact  
4 saved in this particular phone. And the contact for -- that's  
5 saved as Mom lists that same 6519 phone.

6 And then I'm showing what's in evidence as 210(q).  
7 Before I do, there's a phone contact with a telephone number  
8 ending in 2708.

9 And now looking at 210(q), this is a photograph of a  
10 particular screen on a cell phone and it indicates certain  
11 calls, and it includes a call with that same number ending in  
12 2708.

13 And then just finally, with respect to this, I just  
14 showed a screenshot where this 6519 telephone number was saved  
15 as a contact for Mom. I am now going to show what's in  
16 evidence as Government Exhibit 111(a). And this is a  
17 subscriber record for that same telephone number ending in  
18 6519 and it shows the subscriber name as Lutrinia Woods, the  
19 same subscriber that was listed as a subscriber for the 2837,  
20 the phone number ending in 2837, as well as the name of the  
21 mother of Jerhonda Johnson, as set forth in Government Exhibit  
22 813.

23 BY MS. GEDDES:

24 Q All right. So now referring to Government Exhibit 149,  
25 you testified earlier that this reflects telephone calls

Corrado - Direct - Geddes

2719

1 between the telephone numbers ending in 9300 and 6569, the two  
2 numbers that were saved respectively as Rob and the studio in  
3 that prior Government Exhibit, as well -- so it's telephone  
4 contact between those two numbers and these five numbers; is  
5 that right?

6 A Correct.

7 Q And what is the range of contact between those two top  
8 numbers and the five numbers below? When is the first  
9 contact?

10 A The first contact is on June 2nd, 2009.

11 Q And I'm going to turn to the final page. When is the  
12 last contact indicated, as shown in this government exhibit?

13 A It is January 24, 2010.

14 Q And on the exhibit at the top, there are telephone  
15 numbers listed. Which of the -- what are the telephone  
16 numbers? I'm going to turn to the front, the first page.  
17 What are the telephone numbers that are included in that  
18 telephone number list? Is that the ones ending in 9300 and  
19 6569?

20 A Yes.

21 Q And where it says direction, incoming or outgoing, what  
22 does an incoming call denote in light of -- as you prepared  
23 this report?

24 A So in the telephone number column, those are the numbers  
25 that had the cell phone records that I reviewed. So those are

Corrado - Direct - Geddes

2720

1 the numbers that we received records for.

2 And then in the contact telephone number, those are  
3 the numbers that -- the numbers in the telephone number column  
4 we're contacting. So in the direction column, you're able to  
5 tell if it was an incoming or outgoing call to those contact  
6 telephone numbers. So, for example, in the first line, the  
7 9300 is the telephone number. It's the record that I  
8 reviewed, it made an in -- it was a -- it received an incoming  
9 call from the 2117 number in the contact telephone number  
10 column.

11 Q And fair to say that the contact telephone number is just  
12 the telephone number that was in contact with that, what's  
13 listed under the telephone number?

14 A Correct.

15 MS. GEDDES: I'm showing the witness what's been  
16 marked for identification as Government Exhibit 148.

17 Q Do you recognize what is shown in Government Exhibit 148?

18 A Yes.

19 Q What is that?

20 A It is another summary chart I created.

21 Q And does it reflect contact between that same telephone  
22 number that you just testified about ending in 2117 for which  
23 there was a subscriber information indicating that it was  
24 subscribed to a Lutrinia Woods, as well as the phone number  
25 ending in 8200?

Corrado - Direct - Geddes

2721

1 A Yes.

2 MS. GEDDES: The government offers Government  
3 Exhibit 148.

4 MR. CANNICK: No objection.

5 THE COURT: Okay. That is in evidence.

6 (Government Exhibit 148 was received in evidence.)

7 MS. GEDDES: May I publish, please?

8 THE COURT: Yes.

9 Q And what is the date range of the contact between these  
10 two telephone numbers?

11 A The first contact is on May 31st, 2009 and the last is  
12 June 7, 2009.

13 Q And I am showing what's now in evidence as Government  
14 Exhibit 102(a).

15 (Continuing on the next page.)

16

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Corrado - direct - Geddes

2722

1 EXAMINATION CONTINUES

2 BY MS. GEDDES:

3 Q And this is the subscriber record for Jermaine Maxey for  
4 that same telephone number, the one ending in 8200, that's  
5 included on Government Exhibit 148.

6 MS. GEDDES: I am showing the witness only what's  
7 been marked for identification as Government Exhibits 150,  
8 151, 153, 154 and 145.

9 Q Do you recognize what I just put in front of you?

10 A Yes.

11 Q And, generally speaking, what are they, these?

12 A Some of them are excerpts from telephone records, and I  
13 believe there was another summary chart that was in the stack;  
14 yes.

15 Q I just showed you 154, is that an example of a summary  
16 chart?

17 A Yes.

18 Q And did you prepare those summary charts?

19 A Yes.

20 Q And are they prepared in a similar manner to the summary  
21 charts that you previously testified about?

22 A Yes.

23 MS. GEDDES: The Government offers 145, 154, 153,  
24 151, 150 and -- and 150?

25 MR. CANNICK: No objection.

Corrado - direct - Geddes

2723

1 THE COURT: Any objection?

2 (Government's Exhibits 145, 150, 151, 153 and 154  
3 were received in evidence.)

4 THE COURT: Can I see counsel at the side for a  
5 minute?

6 No need for the court reporter.

7 (Sidebar held off the record with the Court and  
8 counsel only.)

9 (Sidebar concluded.)

10 (In open court - jury present.)

11 MS. GEDDES: The Government also offers 156 into  
12 evidence.

13 MR. CANNICK: No objection.

14 (Pause.)

15 MS. GEDDES: The Government offers 156. There was  
16 no objection.

17 THE COURT: Okay, that's in evidence.

18 (Government's Exhibit 156 was received in evidence.)

19 MS. GEDDES: The Government also offers Government  
20 Exhibit 147 and 157, which are also summary charts prepared by  
21 this witness.

22 MR. CANNICK: No objection.

23 THE COURT: All right, in evidence.

24 (Government's Exhibits 147 and 157 were received in  
25 evidence.)

SAM

OCR

RMR

CRR

RPR

Corrado - direct - Geddes

2724

1 MS. GEDDES: And I am now showing the witness only  
2 what's been marked for identification as Government  
3 Exhibit 159(a) through (f).

4 THE COURT: I don't think there's any objection to  
5 this either. Is there, counsel?

6 MR. CANNICK: No.

7 THE COURT: Those are in evidence as well.

8 (Government's Exhibit 159(a) through 159(f) was  
9 received in evidence.)

10 BY MS. GEDDES:

11 Q Beginning with 159(b).

12 (Exhibit published.)

13 Q Can you describe what is shown in 159(b)?

14 And before you do, did you prepare this exhibit?

15 A I did.

16 Q Can you describe what is shown in 159(b)?

17 A It is a map plotting out the cell site location data for  
18 numbers ending in 0880, 7283 and 4738 for the time period  
19 between September 29th, 2015 and October 3rd, 2015.

20 Q And at the bottom there is a key, and just referring to  
21 the last four digits of each phone number, the 0880 is the  
22 denoted by pink; 7283 is denoted by blue; and 4738 is denoted  
23 by yellow.

24 Is that correct?

25 A Correct.

Corrado - direct - Geddes

2725

1 Q And on Government Exhibit 159(b), are there many dots on  
2 this map that are not necessarily individually shown on the  
3 map?

4 A Yes, there are a bunch that overlap.

5 Q And from what you see on 159(b), does it show certain  
6 dots associated with the yellow, certain dots associated with  
7 the blue, and certain dots associated with the purple?

8 A Yes.

9 Q And you testified earlier that these dots denoted cell  
10 site records or cell site location information for those  
11 particular cell sites, is that correct?

12 A Yes.

13 Q And do the cell sites locations approximately show where  
14 a particular cell phone is at a particular moment?

15 A Yes.

16 MS. GEDDES: And I'm showing what's in evidence as  
17 Government Exhibit 159(e).

18 (Exhibit published.)

19 BY MS. GEDDES:

20 Q Can you just describe what is shown in these three boxes  
21 (indicating) at the bottom?

22 So, for example, starting with where my finger is.

23 A So, these points, the three points plot specific  
24 communications and the approximate cell tower and location  
25 that they were hitting off of at the time of those

Corrado - direct - Geddes

2726

1 communications.

2 So, the first one is September 29th, 2015 at 4:29.

3 And the phone that made that communication or received that  
4 communication was zero -- ending in 0880.

5 Q And is that same key that you just testified about, that  
6 same color key that you just testified about on 159(b), is  
7 that also reflected -- are those same colors used on 159(e)?

8 A Yes, those same colors are used throughout all of the  
9 maps that I created.

10 Q And the time that is indicated here, is that reflected in  
11 what is known as UTC?

12 A Yes.

13 Q And then, again, there are other dots here which don't  
14 have the particular callouts reflected.

15 Are these three callouts just a sampling of the date  
16 and time of those particular communications?

17 A Yes.

18 Q Fair to say that if it listed every one, there might be  
19 bubbles everywhere on the map?

20 A Yes.

21 Q And the location of this particular call, the one at 4:29  
22 UTC, does that show that the phone is approximately in  
23 Manhattan?

24 A Yes.

25 Q And is Manhattan an island?

Corrado - direct - Geddes

2727

1 A Yes.

2 Q To get out of Manhattan, do you have to cross over one of  
3 the waters surrounding Manhattan?

4 A Yes.

5 Q And there appear to be a series of dots right around  
6 where my finger is pointed (indicating) in the purple dots and  
7 the blue dots.

8 Do you see that?

9 A Yes.

10 Q Is that right around where the Lincoln Tunnel is located?

11 A Yes.

12 Q And are there then subsequently dots over here  
13 (indicating) in New Jersey?

14 A Yes.

15 Q And I used the term subsequently because do those -- do  
16 those locations occur after the communication at 4:29 a.m.?

17 A Yes.

18 Q And then, just briefly, I am showing you what's in  
19 evidence as 159(d).

20 Is that just a close-up photograph of a portion that  
21 was shown in 159(b)?

22 (Exhibit published.)

23 A Yes.

24 Q And do you know what state or where this occurred?

25 A This looks like Pennsylvania.

Corrado - direct - Geddes

2728

1 Q And you can see that there's some communications around  
2 State College, Pennsylvania, is that correct?

3 A Yes.

4 Q And then similarly showing you 159(f).

5 (Exhibit published.)

6 BY MS. GEDDES:

7 Q Again, is that just a close-up of communications that are  
8 shown on 159(b)?

9 A Yes, it's a close-up of communications in Nebraska.

10 Q And I am showing -- right, and just to be clear, you said  
11 it's a close-up of communications.

12 Those dots reflect the location data for those  
13 particular cell phones, is that correct?

14 A Correct.

15 Q Thank you.

16 And I am showing what's in evidence as 159(a).

17 (Exhibit published.)

18 Q This is just a Google map prepared showing the travel  
19 from New York, New York to Oakland, California.

20 Is that correct?

21 A Yes.

22 Q And this path shown in blue, does that show a path  
23 driving, in part, along Interstate 80?

24 A Yes.

25 Q And finally, I am showing you 159(c).

Corrado - direct - Geddes

2729

1 (Exhibit published.)

2 BY MS. GEDDES:

3 Q Again, is that just another close-up of communications  
4 that are shown on 159(b)?

5 A Yes.

6 Q And -- and, again, where are these communications,  
7 generally?

8 A They're in the state of California.

9 Q And you can see that there are cities, such as Oakland  
10 and San Francisco, written; is that correct?

11 A Yes.

12 Q And I used the term, I think I interchangeably used the  
13 term pink and purple for that color, but are they indicating  
14 the same particular cell phone?

15 A Yes.

16 Q And, again, using the same key?

17 A Yes.

18 MS. GEDDES: Nothing further.

19 THE COURT: All right, any cross-examination?

20 MR. CANNICK: No.

21 THE COURT: All right, you can step down.

22 (Witness stepped down and was excused.)

23 THE COURT: And I think that takes us right to  
24 1 o'clock, which is when we are going to break.

25 So, we have a very long weekend. I won't see you



Corrado - direct - Geddes

2730

1 again until Thursday. That is, obviously, a very long time,  
2 and I am sure you will miss us, but I want to just caution you  
3 again, because we will be apart for so long, please do not  
4 read anything about the case. Do not Google anything. Do not  
5 look on social media. Do not listen to any news reports.  
6 Report to the Court during that time if anybody tries to  
7 contact you or contact any other juror, let us know.

8 I hope you have a relaxing few days here. For those  
9 who are observing the holiday, have a good holiday. And I  
10 will see you next Thursday.

11 All right, thank you.

12 THE COURTROOM DEPUTY: All rise.

13 (Jury exits.)

14 THE COURT: Okay, everybody can have a seat.

15 THE COURTROOM DEPUTY: You may be seated.

16 THE COURT: Just to be clear, the person who came in  
17 momentarily is a lawyer I have on a conference after this  
18 case. He was very early.

19 Anything that anybody wants to bring up before we  
20 break for the -- I was going to say weekend, but for a long  
21 time?

22 MS. GEDDES: Did Your Honor want to address the  
23 defendant's motion?

24 THE COURT: Yes. Yes, I do.

25 So, I don't want to take a whole lot of time with

Corrado - direct - Geddes

2731

1 this. I am just looking at Mr. Scholar's letter, and the  
2 point of contention is the extent to which the Government  
3 should be permitted to offer these videos depicting, I guess,  
4 sexual contact among and between the defendant and various  
5 people.

6 My first question is, is any of the other two people  
7 who appear, are they testifying?

8 MS. GEDDES: Yes, Your Honor.

9 THE COURT: Okay. I think that might answer the  
10 question.

11 I know that some of your submission was premised on  
12 the assumption that they wouldn't be testifying.

13 Do you want to think about that and let me know if  
14 that affects what your position is on this evidence?

15 MR. SCHOLAR: Yes, Your Honor. Thank you.

16 THE COURT: Okay. So, if you want to submit  
17 something in between then. I don't want to ruin your weekend  
18 or your holiday, but it's always better if I get it a little  
19 bit sooner, the Government has a chance to respond, and I can  
20 think about it.

21 MR. SCHOLAR: Sure. When would you like it?

22 THE COURT: When would I like it?

23 MR. SCHOLAR: Not like it, but when should I submit  
24 it?

25 THE COURT: I mean as long as I get it by Tuesday or

Corrado - direct - Geddes

2732

1 something.

2 Is that okay with the Government?

3 I mean I don't anticipate it is going to be a really  
4 long thing. It just gives me some time to contemplate it and  
5 for the Government to respond.

6 So, if you get me something by Tuesday. You get a  
7 response by Wednesday. I'll get back to you on Thursday.

8 All right?

9 MR. SCHOLAR: Thank you, Your Honor.

10 MS. GEDDES: Thank you.

11 THE COURT: Thanks so much.

12 Anything else?

13 MR. CANNICK: Your Honor, during the testimony of  
14 Pace, I was about to make inquiry of a relationship that she  
15 had with Maxey and, basically, to establish that they had  
16 communications and -- and other things going on in the  
17 relationship.

18 The telephone records that the Government submitted,  
19 I think there was some communication between Maxey and Pace.  
20 And precluding me from going into that now, I can't really  
21 argue what I need to argue to the jury with respect to that  
22 line of communication.

23 THE COURT: I confess, I have no recollection of  
24 this line of questioning.

25 MR. CANNICK: Well, what I will do, Your Honor,

Corrado - direct - Geddes

2733

1 because I don't want to belabor it right now, is get it in the  
2 transcript, send it to Your Honor, and then we can revisit it  
3 when we come back.

4 THE COURT: All right.

5 MS. GEDDES: I am happy to address it right now  
6 because the communication is exactly as Jerhonda Pace  
7 testified; that she was invited to the defendant's residence  
8 in Olympia Fields by someone named Jermaine Maxey, also known  
9 as Bubba, and that they exchanged communications as they  
10 arranged to go to meet him. And it happened in May of 2009,  
11 which is exactly what those telephone contacts show.

12 That does not alter the Government's position that  
13 it is a violation of Federal Rule of Evidence 412 to then  
14 further go into any subsequent sexual relationship between  
15 Jerhonda Pace and anybody else.

16 THE COURT: Oh, I do recall that, yes. We can talk  
17 about this further because I think people have places to be --

18 MR. CANNICK: Okay.

19 THE COURT: -- but I am not inclined to change my  
20 ruling on that.

21 MS. GEDDES: Thank you.

22 THE COURT: All right.

23 (Defendant exited the courtroom.)

24 (Judge ANN M. DONNELLY exited the courtroom.)

25 (Matter adjourned to September 9, 2021 at 9:30 a.m. )

**INDEX****WITNESS :****PAGE :****KATE**

DIRECT EXAMINATION 2625  
BY MS. GEDDES

CROSS-EXAMINATION 2646  
BY MR. CANNICK

**JOHN MIRANDONA, JR.**

DIRECT EXAMINATION 2668  
BY MS. SHIHATA

**STEPHEN FLATLEY**

DIRECT EXAMINATION 2696  
BY MS. SHIHATA

**ROSANNA CORRADO**

DIRECT EXAMINATION 2710  
BY MS. GEDDES

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**EXHIBITS**

Government Exhibit 60 2625

Government Exhibit 60(a) 2626

Government Exhibit 60(b) 2626

Government Exhibit 930 2643

Government's Exhibit 345(a) 2671

Government's Exhibit 344(a) 2674

Government's Exhibits 248(a) and 348(b) 2675

Government's Exhibits 344(b), 344(c) and 344(d) 2680

Government's Exhibits 344(3) and 344(f) 2682

Government Exhibits 344G through K 2685

	<b>EXHIBITS (CONTINUED)</b>	<b>Page :</b>
1		
2	Government Exhibit 108A	2688
3	Government Exhibits 337 and 337A	2690
4	Government Exhibits 338 and 338A	2692
5	Government Exhibit 344A	2696
6	Government Exhibit 913	2698
7	Government Exhibit 132A	2700
8	Government Exhibit 915	2703
9	Government Exhibit 914C	2705
10	Government Exhibit 913	2707
11	Government Exhibit 916	2707
12	Government Exhibit 816	2708
13	Government Exhibits 101(a) and (b), 102(a), 103(a),	2712
14	104(a), 105(a) and (b), 107(a), 109(a) and (b),	
15	110(a) and (b), 111(a), 112(a), 113(a), 114(a),	
16	115(a) and (b), 116(a) and (b), 117(a) and (b),	
17	118(a) and (b), 119(a) and (b), 120(a) and (b),	
18	120(a), 122(a) and (b), 123(a), 124(a), 125(a) and	
19	(b), 126(a) and (b), 127(a), 128(a), 129(a), 130(a),	
20	(b) and (c), 131(a), 133(a), 134(a), 135(a), 136(a),	
21	137(a), 138(a), 139(a), 140(a), 141(a), 142(a),	
22	143(a), and 152(a)	
23	Government Exhibit 149	2713
24	Government Exhibit 813	2715
25	Government Exhibit 160	2716

**EXHIBITS (CONTINUED)****Page :**

Government Exhibit 148	2721
Government's Exhibits 145, 150, 151, 153 and 154	2723
Government's Exhibit 156	2723
Government's Exhibits 147 and 157	2723
Government's Exhibit 159(a) through 159(f)	2724

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